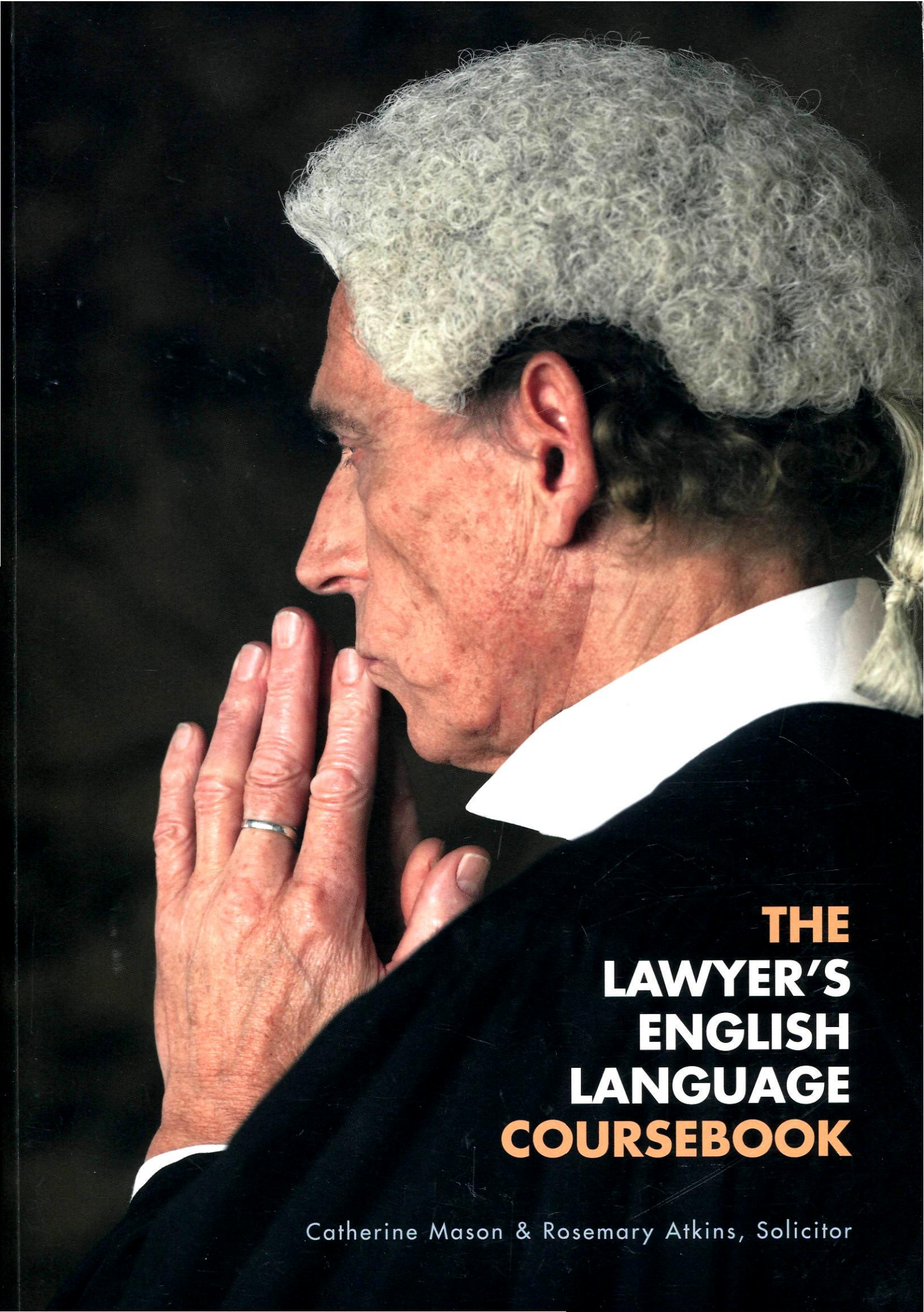

THE LAWYER'S ENGLISH LANGUAGE COURSEBOOK

Catherine Mason & Rosemary Atkins, Solicitor

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THE LAWYER'S ENGLISH LANGUAGE COURSEBOOK

Catherine Mason &
Rosemary Atkins, Solicitor

GLOBAL LEGAL ENGLISH LTD

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PREFACE

We know that as a legal professional today, you need up-to-date and accurate legal English in order to meet the challenges of work. This is because:

- you have to deal with English-speaking clients and lawyers more than any previous generation of lawyers
- you are often expected to interpret or amend long commercial contracts drafted in English
- you receive letters and emails written in English on a daily basis.

Legal English is a different language from general English. Just as lawyers in your own country write in a different language from other people, so do English speaking lawyers. Sentences are often structured differently in legal English. The words lawyers use are often centuries old, and no longer commonly used in general English. New prepositions need to be learned. When you read a commercial contract or read a letter there is new, technical vocabulary to understand on every page.

The Lawyer's English Language Coursebook was written for legal professionals such as you, with your needs at the heart of the book, and it gives you the material you need to study in an efficient and effective way. It is based upon our many years experience of teaching and working with lawyers, law students and legal translators from around the world. We are convinced that this book is the best study material available to you if you want to be professional and accurate in all you do in English at work.

This coursebook is intended to be a complete course of preparation for the TOLES Foundation and Higher exams in legal English. We recommend that anyone planning to take the TOLES Advanced exam should use this book too, as the material in it is fundamental to any lawyers' English language skills. Even if you do not intend to take a legal English exam, you can use this book as a complete course of self-study for legal English and it is recommended to anyone who needs to use legal English at work.

Each of the ten units is divided into section A (Foundation) and section B (Higher). We recommend that everyone should complete section A of each unit, to be sure from the start that you are familiar with the legal vocabulary it contains and are accurate in what you are doing. When you are confident that you know the material contained in Section A of each unit, you can proceed to build on your skills by completing the more complex exercises in section B. Each unit also contains some practice exercises for the TOLES exams.

You will see that the book contains boxes, clearly marked with a symbol (m). These boxes or 'banks' of information contain language that you will need to memorise. Please do not be tempted to ignore these boxes. We assure you that if you memorise this information you will see a spectacular improvement in your legal English. We believe that no particular book or computer programme can ever be a substitute for old-fashioned hard work.

We hope that you enjoy using this book and we are confident that it will add quality and accuracy to your legal English skills.

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Cambridge 2007

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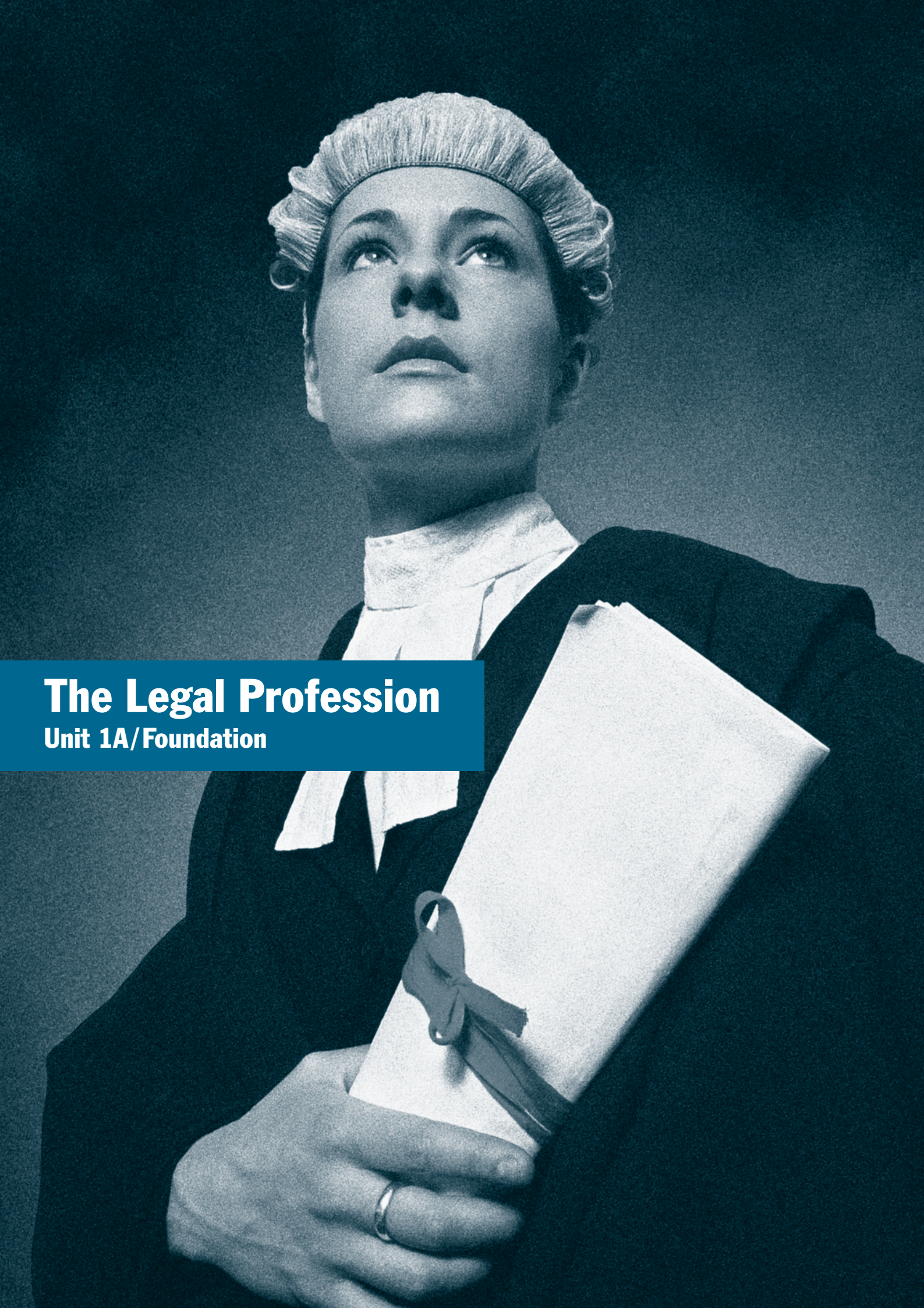

The Legal Profession

Unit 1A/Foundation

THE LEGAL PROFESSION

WORKING IN LAW

Exercise 1

Look at this list of legal occupations. All of these people work in law. We call all of the people who work in these jobs, 'the legal profession'. Match the jobs with one of the descriptions.

☐ **Solicitor**	☐ **Attorney**	☐ **Barrister**	☐ **Lawyer**

a This person is a lawyer who gives legal advice and opinions to solicitors. He or she passed the exams of the Bar Council of England & Wales at the end of his or her studies.

b This person is a lawyer who gives legal advice to individuals and companies. He or she passed his or her exams in the USA at the end of his or her studies and is usually a member of the American Bar Association.

c This person is a lawyer who gives legal advice to individuals and companies. He or she passed the exams of the Law Society of England & Wales at the end of his or her studies.

d This the general job title that we use for people who work as a solicitor, barrister or attorney.

Exercise 2

Read this text about working in law. The most important words are in the key vocabulary below. Decide if the statements on the next page are true or false.

Key vocabulary

- **lawyer**
- **attorney**
- **qualified**
- **litigation**
- **right of audience**
- **practise**
- **judge**
- **legal practice**
- **advocacy**
- **appear**
- **barristers**
- **training contract**
- **partnership**
- **pleading a case**
- **solicitors**
- **law firm**
- **acting for**
- **represent**
- **specialise**
- **clients**

There are two types of **lawyer** who **practise** in England. They are called **barristers** and **solicitors**. In the USA and most other countries, lawyers don't make this division – a lawyer is simply known as an attorney at law, or an **attorney**.

In both England and the USA, it is not possible to take a special exam to be a **judge**. If you decide that you want to be a judge, you must get a lot of experience as a lawyer first, then apply to be a judge and wait to see if you are chosen.

Most law students in England become solicitors. When they finish their university studies they do a one year legal practice course and then a two-year **training contract** with a **law firm**. After that, they are **qualified** solicitors. Many solicitors work for a **legal practice**, which is usually a **partnership** of solicitors who work together. Solicitors practise in many areas of law, although each solicitor usually chooses to **specialise** in one particular area. They represent their **clients** both in and out of court. We often describe this as **acting for** a client. The process of making a claim in the civil court is called **litigation**.

Barristers are self-employed lawyers and don't work in partnerships in the way that solicitors do. They are specialists in **advocacy**, which is the skill of speaking for someone in court. We call this **pleading a case**. They also give opinions on areas of law to solicitors and the solicitors' clients. It is not just barristers who have the **right of audience** in court – solicitors are also allowed to **represent** their clients in court and many solicitors **appear** in court every day. It is not true to say that a client always needs a barrister in court.

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a	There are two types of lawyer practising in England.	☐ **True**	☐ **False**
b	Last year I finished my training contract and I started working for a large international law firm. I am now a qualified lawyer.	☐ **True**	☐ **False**
c	Only barristers can speak on behalf of clients in court.	☐ **True**	☐ **False**
d	Many solicitors work together in partnerships but barristers don't.	☐ **True**	☐ **False**
e	In the USA and England lawyers can take a special exam to be a judge.	☐ **True**	☐ **False**

MAKING A CLAIM IN THE CIVIL COURT

In the English and American legal systems we divide the law into two main areas. These are **criminal law** and **civil law.**

This means that everything that is *not* a criminal matter is a civil matter.

Exercise 1

Look at these situations and decide if the person needs a **criminal** *lawyer or a* **civil** *lawyer. In other words, is it a* **criminal matter** *or a* **civil matter***?*

a Mr Bellerby is opening a new factory. He needs to visit a lawyer to get a contract for all of his employees to sign.

☐ **criminal** ☐ **civil**

b Mrs Robson is thinking about what she wants to happen to her house and possessions after her death. She needs to visit a lawyer to get the correct document, which is called a 'will'.

☐ **criminal** ☐ **civil**

c The police are taking Mr Dean to the police station because they say he stole a car. He needs a lawyer to come and visit him there to tell him what to do.

☐ **criminal** ☐ **civil**

d Mr Flynn owns a restaurant. He has a contract with a company to deliver fruit and vegetables to his restaurant. The company didn't deliver them on the agreed date, so Mr Flynn lost money because he could not open his restaurant that day. Mr Flynn needs to see a lawyer about asking the delivery company to give him the money he lost.

☐ **criminal** ☐ **civil**

e Mr Allen is a bank manager. The bank is saying that some money is missing. Mr Allen has a new car and expensive clothes. The police are coming to ask Mr Allen some questions. He needs a lawyer immediately.

☐ **criminal** ☐ **civil**

Help desk

What do these words mean?

criminal law – the law that punishes acts against a person or against property that people consider to be harmful to the whole community. The state prosecutes criminals.

civil law – the law concerning the rights and duties of private individuals and companies rather than criminal matters.

a matter – a subject or situation, e.g. a criminal matter, a civil matter.

a will – a legal document in which a person gives details of what they want to happen to their property after their death.

to steal (stole) – to take something that belongs to someone else with the intention of keeping it.

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Exercise 2

Read the information below. It is about starting a claim in the civil court. Decide if the statements under it are true or false.

Starting a claim in the civil court

When you are in dispute with another person sometimes it is necessary to start a claim in the civil court. We sometimes call this process 'filing a claim' or 'issuing a claim'. Lawyers also say, 'starting proceedings'. We do not use the verb 'to prosecute' in civil law because that verb is only used in criminal law. In England most civil claims are filed in the County Court. There are over 200 County Courts in England and Wales. Most cities and large towns have a County Court.

The person who starts the claim is called the claimant in the UK. This person was called the plaintiff until 1999, when there were new court rules in England to make everything easier for people to understand. However, in the USA the claimant is still called the plaintiff. In both England and the USA the other party is called the defendant.

A claim form is the document that a claimant uses to start legal action against the defendant.

Why might a claimant start a claim? There are a lot of reasons, for example:

- someone refuses to pay you money that they owe to you
- someone does a job for you, but they do it badly – we call this bad workmanship
- something that you paid for is not supplied to you
- something that you bought is not working properly.

The claimant has to pay a sum of money, called a court fee, for the court to issue proceedings. In the claim form, the claimant must state the amount of his or her claim and request the defendant to pay all of the legal costs of the case.

Sometimes people talk about 'the small claims court'. They really mean the special procedure that exists at the County Court for small claims. A small claim is a claim for a maximum amount of £5000.

a	Starting a claim means the same as starting proceedings.	☐ **True**	☐ **False**
b	You can 'prosecute' someone in the civil court.	☐ **True**	☐ **False**
c	There are more than 200 County Courts in England and Wales.	☐ **True**	☐ **False**
d	The word 'plaintiff' is not used in England any more but it is used in the USA.	☐ **True**	☐ **False**
e	It is free to start a claim in the County Court.	☐ **True**	☐ **False**
f	There is a special court in a separate building for making small claims.	☐ **True**	☐ **False**

Help desk

What do these words mean?

to be in dispute – to have a serious disagreement with another person.

a party to a court case – the claimant or the defendant.

to owe money to someone – to have to pay someone for something that they have done for you or given to you.

legal costs – the court fees and payment for the lawyer who is acting for you.

a procedure – a decided way of doing something.

to prosecute – to take legal action against someone in the criminal court.

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Exercise 3

Here are some important expressions which lawyers use when they talk about starting a claim in the civil court. Complete the sentences by matching the first half of each sentence with the correct ending.

(*) To **issue a claim** means to…	…confirm that you have received the claim and to say what you will do next.
a To **pay a fee** means to…	…start a claim in the civil court.
b To **serve a claim** upon someone means to…	…listen to the details of the claim and listen to what the claimant and the defendant say about their dispute.
c To **respond to a claim** means to…	…pay the court an amount of money for issuing the claim.
d To **hear a case** means to…	…can legally take a person's property when that person does not pay money that he or she owes.
e To **find in favour of** someone means to…	…officially announce the result of the case. The judge may give the reasons for the decision.
f To **give a judgment** means to…	…send the claim to the defendant's address and make sure that he or she receives it.
g To **make an order** means to…	…decide that this person has won the case.
h A **bailiff** is a person who…	…officially state what someone has to do, and how and when he or she must do it.

Exercise 4

Here are the steps in which a claim goes through the County Court. Fill the gaps with a word from Exercise 3.

a The claimant _____ a claim in the County Court.

b The claimant will have to pay a _____. The amount depends on the amount of money that the claimant is claiming.

c The court or the claimant's solicitor _____ the claim upon the defendant. This means that they send it to the defendant's address and make sure that the defendant receives it.

d The defendant has 14 days from the day he or she receives the claim to _____ to it. The defendant can admit the claim, which means to agree that the claim is right, and pay the money that the claimant wants, or the defendant can defend the claim.

e If the defendant decides to defend the claim, a judge will _____ the case in the County Court.

f The judge will give his or her judgment. The judge will _____ in favour of the claimant or the defendant.

g The parties must follow the terms of the _____ that the judge makes and they must make sure that they obey any instructions about time limits.

h If the order says that the defendant must pay money to the claimant then the claimant can use the services of a _____ to collect that money if the defendant does not pay.

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AREAS OF LAW

Exercise 1

In England and the USA there is an area of law called 'the law of tort'. It is the law of civil responsibility. It is an area of civil law.

Read this text about the law of tort. The most important words are in the key vocabulary below. Answer the questions that follow, using a full sentence.

Key vocabulary

- **law of tort**
- **injured person**
- **allegations**
- **carelessness**
- **committed**
- **negligence**
- **tort**
- **to sue**
- **no win-no fee**
- **damages**
- **grounds**
- **breach**

The law of tort says that everyone has a civil duty to be careful and not to hurt or harm another person. Lawyers call this civil duty, 'the duty of care'. Sometimes people breach this duty of care. To **breach** means to break. Very often they breach the duty of care by accident but sometimes they do it deliberately. If someone hurts or harms another person because of a breach, we call this harmful action **a tort**. This means that some things that might be criminal in your legal system are a tort in England and the USA.

Look at the list of harmful actions below. In England and the USA they are usually torts.

- leaving the floor of a shop in a dangerous condition so that a customer falls and hurts her leg
- saying something that is bad about someone, which isn't true
- writing a story in a newspaper about someone, which isn't true
- playing loud music late every night, which disturbs your neighbours

This area of law is easier to understand by thinking of a tort as being a type of civil wrong. Each of the torts listed above has a special name. The tort that happens most often is called **negligence**.

Negligence means that someone was not careful enough and this person's **carelessness** hurt another person as a result. The person who is hurt is called the **injured person**.

When someone hurts you as a result of his or her actions, you need to consult a lawyer who specialises in the right area of tort. The lawyer will try to get you money from the careless person. This money is called 'compensation' or, more correctly, '**damages**'. Sometimes the lawyers can't agree on the amount of damages. When this happens, the injured person may decide **to sue** the person who has hurt them. Suing someone is a more informal way of saying starting proceedings against someone. The claim form will state the claimant's **allegations** against the defendant. An allegation is like an accusation – the claimant is stating that something happened, but the defendant has the opportunity to say this is not true. The reasons for going to court are called 'the **grounds**'. The grounds for an action in tort are that the defendant **committed** a tort.

Sometimes a lawyer who specialises in the tort of negligence makes an agreement with a client. The agreement is that if the client does not win the case then he or she does not have to pay for the lawyer's services. This is called a '**no win-no fee**' arrangement. It is allowed in the UK and the USA.

Example question: What is the duty of care?
Example answer: The duty of care is the obligation to be careful and not to hurt anyone.

a How do lawyers say to 'break' a duty of care?

Answer: _____

b In England and the USA, is the law of tort an area of criminal or civil law?

Answer: _____

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c There are different types of tort. In general, what is a tort?

Answer: _____

d What is the name of the tort that a person commits because he or she is careless and hurts someone else as a result of this carelessness?

Answer: _____

e What does suing mean?

Answer: _____

f What is the correct name for the money that an injured person gets from the defendant in a successful action in tort?

Answer: _____

g What is the correct name for an arrangement where a client does not have to pay his or her lawyer if the client loses his or her action in tort?

Answer: _____

Exercise 2

Put a word from the key vocabulary in Exercise 1 into the following sentences.

a I am _____ the owner of the shop because there was water on the floor and I fell and hurt my back.

b I am a lawyer who specialises in the tort of _____. People are just not careful enough! At the moment I am acting for the injured person in more than 20 different cases.

c The machines in the clothing factory were old and dangerous and one of the employees injured his hand. The employee sued the factory owners and got £5000 in _____.

d In your claim form you accuse us of breaching our duty of care. We do not accept that your _____ are true and we will defend your claim in court.

e Do you have a good reason for suing the owner of the hotel? What exactly are your _____ for starting legal action?

Exercise 3

Here is a list of some important areas of law. Read what the lawyers say on the next page. They are talking about the work they do. Match the lawyer with the correct area of law.

a law of contract	_____	**f** employment law	_____
b company law	_____	**g** family law	_____
c land law	_____	**h** immigration law	_____
d law of tort	_____	**i** intellectual property law	_____
e law of equity and trusts	_____	**j** criminal law	_____

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David 'I work in New York. I deal with clients from other countries who want to come and live here. I help them to get permission from the government to make their dream of living in the USA a reality.'

Tom 'I am with a law firm in Manchester. I am now in the second year of my training contract. At the moment I deal with clients who are buying or selling their house. It's my job to make sure everything is correct and that the sale is valid and legal.'

Jennifer 'I work in a very exciting area of law here in Los Angeles. I meet a lot of writers and musicians and sometimes even people from movie studios! I protect their rights and make sure that no-one can copy their work and make money from it without their permission.'

Alistair 'When I write the story of my life I will call my book, "Robbers, Murderers and other Friends of mine!" I work in Edinburgh, which is in Scotland. I defend people who are in trouble with the police. They may even go to prison! It is my job to help them.'

Sunitta 'I work in Sydney, Australia. I give advice to people who are unhappy living together and they want a divorce. Sometimes people argue about money or the care of the children. It's a difficult area of law and I feel very sympathetic towards my clients.'

Cory 'I work in Chicago. I am quite famous on TV here in the USA. That's because Channel 10 show my advertisement five times every day! I ask people to call me if they were hurt or were in an accident because somebody else wasn't careful enough. If people are not careful, then I'm afraid they will have to pay damages!'

Kayleigh 'I work in Christchurch, New Zealand. Most of my clients have problems at work. I saw a lady this morning who is going to have a baby. When she told her boss that she is pregnant, he fired her from her job. That is not legal in New Zealand and I will help her to do something about it.'

Michael 'I work for a very big London law firm. Our clients are banks and other big businesses. Today I am working on a merger agreement, which means that two companies are joining together to become one. Yesterday I advised a new client who wants to start an internet company on the different ways he can do it.'

Mary 'I am based in Dublin, the capital city of Ireland. I see people or companies who want to make a legal agreement with another person or company. Today I am dealing with an agreement to deliver goods from Ireland to the USA. I have to check every word very carefully!'

Polly 'I work in a very old and interesting area of law. Today I met a client who is 70 years old and has no family. When she dies, she wants to put all of her money into a special fund. Her two friends will use this money to help pay for a training school for actors and actresses from her home city here in Liverpool. I explained to her how to do that and I will draft the necessary legal documents for her.'

Help desk

What do these words mean?

to deal with someone or something – to do business with someone or to take the correct action in an area of work.

legal – allowed by the law.

valid – legally correct and acceptable.

to draft a document - to write a document.

to have a right – (in intellectual property law) to have a legal interest in something; it is yours.

robber – a person who steals money or property using or threatening to use violence.

a divorce – the legal ending of a marriage.

to merge – (in company law) when two companies join together to form one.

to be based somewhere – to be established somewhere as the main place where you work or live.

goods – things that are produced so that they can be sold.

fund – an amount of money that a person or organisation keeps to pay for something in particular.

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Exercise 4

Choose a word or phrase from the box to complete the sentences.

- **drafting**
- **the law of equity and trusts**
- **criminal law**
- **valid**
- **based in**
- **goods**
- **intellectual property law**
- **the law of tort**
- **family law**
- **merged**

a A lawyer who deals with clients who are in trouble with the police is a specialist in _____.

b Last year my bank _____ with a big German bank and they are now called EuropBank. I think they are the biggest bank in Europe now!

c A lawyer who deals with clients who create new inventions such as medicines or machines, or new artistic works such as books or music, is a specialist in _____.

d I spent three hours this morning _____ a contract for my new client. I think the contract is ready for him to read and sign now.

e I want to put some of my money into a fund for the benefit of my grandchildren, which they will have when they reach the age of 18. I need to see a lawyer who is a specialist in _____.

f Well, I am from London but I am _____ Amsterdam at the moment because I'm working for a Dutch company.

g A lawyer who deals with clients who are divorcing or who have problems over the care of their children is a specialist in _____.

h The company delivers _____ all over the United States by rail and by truck.

i A lawyer who deals with people who breach their civil duty of care is a specialist in _____.

j That contract is not _____ because your client hasn't signed it.

Exercise 5

Look at the words and phrases in the box. All of the words are connected with specific areas of law. Match each of the words with the correct definition.

- **unfair dismissal**
- **lease of land and buildings**
- **formation of a business**
- **landlord**
- **maternity leave**
- **discriminate**
- **tenant**
- **capital**
- **sick pay**
- **insolvent**
- **conveyancing**
- **redundancy**
- **partnership**
- **merger**
- **real estate**

a To be _____ means not having enough money to pay your debts.

b A _____ is the joining together of two or more things, such as companies, to form one single thing or company.

c A _____ is a person who pays rent to the owner of a house, a flat or an office in return for living there, or for using the building for business purposes.

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d _____ is the legal process involved in transferring the ownership of a house or land from the seller to the buyer.

e To _____ against someone means to behave differently towards that person, usually in the workplace, because of their age, sex or the colour of their skin.

f _____ is a situation where someone loses his or her job for a reason that is not valid.

g _____ is money that an employer must pay to an employee when that employee is ill and cannot work.

h A _____ is an agreement to allow someone to use land or buildings for a fixed period of time in return for a payment of rent.

i The _____ is the establishment of a new business in a specific way.

j A _____ is a business which a minimum of two people own and control.

k _____ is the time period when a woman is not at work before and after the birth of her baby. Her employer usually pays her for part or all of the time that she is away.

l _____ is the total amount of money, property and other assets that a business has.

m _____ is a situation where someone loses his or her job because an employer no longer needs so many employees.

n A _____ is a person who owns a house, a flat or office and receives rent from someone for allowing them to live there, or use the building for business purposes.

o _____ is a more formal way of saying land and houses.

Help desk

What do these words mean?

ownership – to have ownership of a property means that the property belongs to you. You are the owner of the property.

assets – things that a person or company owns.

debts – sums of money that you owe.

rent – the money that someone pays, usually every month, to use a flat, a house or an office that belongs to someone else.

fixed – something that is fixed is certain and cannot be changed.

Exercise 6

All of the words and phrases in Exercise 5 belong to either employment law, business law or land law. Put each word or phrase under the correct area of law.

Employment law	Business law	Land law

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Exercise 7

*Complete the following sentences by using the words from the **employment law** section .*

a My baby will arrive at the end of March so I will take six months' _____ starting on 1 March.

b He sued his employer on the grounds of _____ because the reason his employer gave for firing him was not valid.

c If you are ill and not able to work you should look at your contract to see if you can get _____.

d It is against the law in England for an employer to _____ against an employee because of his or her age.

e Many employees are worried about _____ because a lot of businesses are closing in this area at the moment.

Exercise 8

*Complete the following sentences by using the words from the **business law** section.*

a The _____ is the formal way of saying the way in which a new business is created.

b The total _____ of the business is valued at approximately £32 million.

c The business does not have enough money to pay its debts and is _____.

d There will be a _____ next year between two major British chemical companies.

e My friend and I want to start a cleaning business together and we decided that the best thing to do is to create a _____.

Exercise 9

*Complete the following sentences by using the words from the **land law** section.*

a He is a very good _____. He always pays the rent on time!

b My sister works in the Property department of her law firm. She acts for people who are buying and selling houses. She is a specialist in _____.

c We don't own our house; we rent it. The _____ ends in three months so we will have to find somewhere else to live.

d He is the _____ of five houses in this area. He makes a lot of money every month from the rent.

e The price of _____ in this part of the country increased a lot last year. It is very expensive to buy a house.

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UNIT 1A VOCABULARY CHECK

These are the important words that you have studied in Unit 1A. You should make sure that you know these words before you go on to Unit 1B.

act for
advocacy
allegation
appear
attorney

bailiff
barrister
to be based somewhere
breach

capital
carelessness
case
civil law
claimant
client
company law
conveyancing
criminal law

damages
deal with
debt
defendant
discriminate
dispute
divorce
draft

employment law

family law
formation of a business

goods
grounds

harm
hear

immigration law
injured person
insolvent
intellectual property law
issue

judgment

land law
landlord
law firm
the law of contract
the law of equity and trusts
the law of tort
lawyer
lease
legal
legal costs
legal practice
litigation

maternity leave
matter
merge

negligence
no win-no fee

obligation
owe
to have ownership

partnership
party
plaintiff
plead a case
practise
procedure
proceedings

to be **q**ualified

real estate
redundancy
represent
respond
to have a right
right of audience

serve
sick pay
solicitor
specialise
sue

tenant
tort
training contract

unfair dismissal

valid

will

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TOLES FOUNDATION EXAM PRACTICE

Exercise 1

Look at the sentences below. Each sentence contains a mistake. The mistake is either an incorrect word or a word that should not be there. Put a circle around the word. Do NOT circle more than one answer for each sentence. There is an example at the beginning (*).

Example

(*) In the United States they do not difference between two separate kinds of lawyer because all lawyers are known as attorneys.

1 When a student finishes his or her legal studies he or she has to make a two-year training contract with a law firm.

2 The law of tort says that everyone must to be careful and not harm other people.

3 I will start my training contract with the Taylor Wallis in September.

4 If we issue a claim against you we will ask for a very high damages.

5 He breached the contract and I will prosecute him in the civil court.

Exercise 2

Look at the article below. Read it and decide if the statements under it are true or false. Write your answers in the box below. There is an example at the beginning (*).

Sanjay Pritam is a partner with a law firm in Southampton in the south of England. Sanjay is a specialist in maritime law. He chose this area of law because of his family history. His father owns a ship. Sanjay's father worked on this ship for his whole life. Sanjay worked with him for two years and then he started his legal studies. Sanjay thinks this practical experience on a ship was very useful.

English law influences most of the law that governs international maritime cases. For this reason, lawyers from all over the world contact Sanjay's office to ask him for his opinion, which he gives by phone or email.

When maritime lawyers are speaking informally they divide cases into two categories. They call them 'dry' cases and 'wet' cases. Dry cases involve problems with shipping contracts and wet cases involve problems at sea, such as ships that have accidents. Most of the cases that Sanjay deals with cannot be negotiated and end in litigation.

Example

(*) Sanjay Pritam works in a family law practice.

1 Sanjay's father is also a lawyer.

2 Sanjay thinks it is good that he worked on a ship before he was a lawyer.

3 Sanjay usually travels to other countries to help lawyers who have questions about maritime law.

4 A maritime case involving a breach of contract is informally called a 'dry case'.

5 Most of Sanjay's cases go to court because the parties cannot agree upon a solution.

(*) FALSE	(1)	(2)	(3)	(4)	(5)

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Exercise 3

Here is a conversation between a lawyer and his client. The conversation is mixed up. Put the conversation in the correct order. Write your answers in the boxes numbered below. There is an example at the beginning (*), which is the start of the conversation.

(*) Good Morning Mr Rodriguez. Thank you for coming to see me. I understand that you would like to issue a claim in the County Court?

a Three months is a long time. I agree that you should issue a claim. I will explain to you how it all works. The first thing that we must do is to complete a claim form and file it at the County Court.

b Yes, you will have to pay a fee. But if you win, the judge will usually order the defendant to pay back the fee. The next thing that happens after we file the claim is that the court will serve the claim form upon the defendant.

c Yes, that is correct. I think going to court is the only thing that I can do. I supply food to restaurants and cafés in Chatsworth. I have a contract with all of my customers. The contract states that a customer has 14 days to pay me from the date they receive a delivery. A customer who owns a café in town is three months' late in paying me. I would like to start proceedings against him.

d I see. What information do you need to complete the claim form?

e He has 14 days to respond. In this case I hope your customer agrees that your claim is correct and that he will pay the money he owes you when he receives the claim. That is the best thing that can happen.

f I need the name and address of your customer. When we file the claim your customer will be called the defendant. I also need the details of your claim. I need to know when the defendant received the delivery from you and when he was supposed to pay you. Please bring me a copy of the contract so that I can check the part of it that talks about payment. How much money does he owe you?

g And when he receives the claim how many days does he have to respond to it?

h £430. I can bring a copy of the contract to your office this afternoon. What happens when we file the claim? Do I have to pay a court fee?

(1) (*)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

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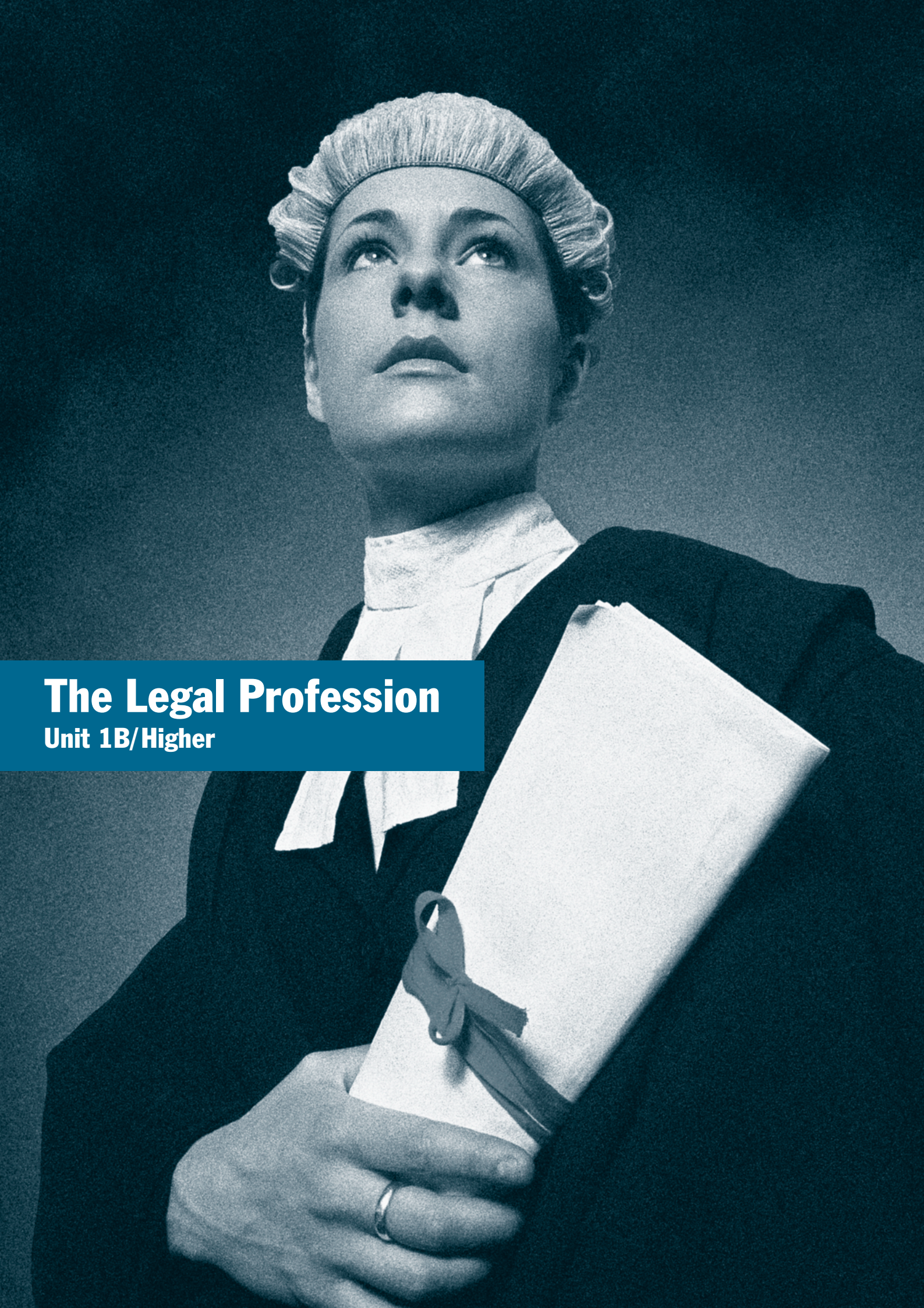

The Legal Profession

Unit 1B/Higher

THE LEGAL PROFESSION – WORKING SKILLS

THE IMPORTANCE OF COLLOCATION

Collocations are words that form natural partnerships in English. For example, we say,

'**Merry** Christmas!'	but	'**Happy** New Year!'

Why can't we say 'Merry New Year'? It's because a native wouldn't expect these words to go together. They do not form a good collocation. Legal English is full of collocations. They might be:

- **verb+noun**
  Do you **accept liability**?
- **noun+verb**
  The **gap** has **widened** between them.
- **verb+adverb**
  Could we please **discuss** this matter **rationally**?
- **adjective+noun**
  She made a **fatal error**.
- **adverb+adjective**
  This is a **highly contentious** dispute.

The key to learning accurate legal English is to have a good familiarity with collocation. Some nouns form good collocations with more than one verb. Some nouns form a good collocation with just one verb. The important thing is to start to notice accurate collocations and memorise them. For example:

Good collocation:	to **draft** a contract to **honour** a contract to **breach** a contract
Bad collocation:	to **write** a contract to **respect** a contract to **infringe** a contract

As you work through this book you will see many collocations. To help you notice and remember accurate collocations they have been put into a collocation bank for you, like this:

Collocation bank

- to **draft** a contract
- to **honour** a contract
- to **breach** a contract

Exercise 1

Look at these sentences. They contain collocations that are in Unit 1A. Complete the sentences with a word from the four choices on the next page.

a Solicitors are allowed to _____ clients in court.

b I'm afraid I can't help you. I am a commercial lawyer and this is a criminal _____.

c What are the _____ for your case?

d I will _____ my final law exams in June of next year.

e My client is _____ a new factory and he needs advice about the relevant health and safety regulations.

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a	**A** represent	**B** work for	**C** stand for	**D** advocate
b	**A** issue	**B** matter	**C** subject	**D** point
c	**A** grounds	**B** reasons	**C** motives	**D** basis
d	**A** pass	**B** make	**C** prepare	**D** take
e	**A** starting	**B** launching	**C** opening	**D** initiating

THE IMPORTANCE OF PREPOSITIONS

As you work through this book you will see many prepositions. To help you notice and remember accurate prepositions in a legal context they have been put into a preposition bank for you, like this:

Preposition bank

- an attorney **at** law
  'My daughter is an attorney **at** law in Atlanta.'
- to work **on** something
  'I'm currently working **on** a merger agreement.'
- to send a cheque **for** an amount of money
  'Please send a cheque **for** £2000.'
- subject **to** something
  'The goods are for sale at this price subject **to** availability.'

Exercise 1

Complete these sentences with a preposition that you saw in Unit 1A.

a The judge awarded my client €20,000 _____ damages.

b Suing someone is a more informal way of saying starting proceedings _____ someone.

c A small claim is a claim _____ a maximum of £5000.

d Stephen works for a law firm _____ Manhattan.

e When you are _____ dispute with someone you can start a claim in the civil court.

f Could I take a look _____ your employment contract?

Exercise 2

Using the knowledge that you have about collocations and prepositions correct the language below.

'My name is Luigi and I am a lawyer **at** Milan. I work **into** a big law firm. Today I am very busy. I am **writing** a contract **to** a new client. This afternoon I am **speaking for** a different client in court. It is a **disrespect** of contract case. I think we will win the case because our **reasons** are very strong.'

'My name is Luigi and I am a lawyer _____ Milan. I work _____ a big law firm. Today I am very busy. I am _____ a contract _____ a new client. This afternoon I am _____ a different client in court. It is a _____ of contract case. I think we will win the case because our _____ are very strong.'

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SOLICITORS AND BARRISTERS

Exercise 1

Diana Williams is a lawyer. Today she is going to visit a school in her town to talk to the students about a career in law. Here are some of Diana's notes for her talk. In this section she is talking about the two separate professions that exist in England, solicitors and barristers.

Fill in the gaps in the text with the correct word from the box below.

• **partner**	• **judge**	• **client**	• **audience**
• **qualify**	• **practices**	• **solicitor**	• **associate**
• **partnerships**	• **court**	• **attorney**	• **issued**

My notes for careers talk at Chatsworth Hill School.

In England we have two different types of lawyer. One is known as a (a) _____ and the other is a barrister. Both are called 'lawyers'.This can be a little confusing because in the USA every lawyer is usually known as an (b) _____. An English law student has to decide at sometime during their university studies which type of lawyer they would like to become when they finally (c) _____ as a lawyer.

Most English law students decide to become a solicitor. These are the lawyers that a (d) _____, the person who pays for the services of a lawyer, will usually meet first. Often the solicitor can help the client without the need for a barrister.

Most solicitors work in small private businesses, known as (e) _____, in what are called 'High Street firms'. This phrase 'High Street firm' refers to a typical, small group of solicitors working together in the type of offices that you can find on the major streets of any English town or city. Many law firms are set up as (f) _____. A young lawyer will usually work first as an (g) _____ of the firm and gain some experience while being paid a fixed salary before being offered the opportunity to become a (h) _____. A typical High Street solicitor usually specialises in a particular area of law, such as family, employment or commercial law. Many people believe that solicitors cannot act for their clients in (i) _____ but this is untrue.Thousands of solicitors appear in court every day, especially in the County Courts where most claims are (j) _____.

The second type of lawyer found in England is known as a barrister. Barristers are usually specialists in a very particular area of law. They give advice and opinions to solicitors and their clients. Barristers have the right of (k) _____ (the right to be heard by a judge) in all of the courts in the land. Barristers often share offices, known by the traditional name of chambers, although they all work alone as individuals because they are forbidden to work as partners. After several years of experience, members of either profession may apply to preside over cases and sit as a (l) _____. Within the English legal system a law student cannot take an exam to be a judge but has to wait to be appointed after some years of experience as a lawyer.

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Collocation bank

- to **qualify** as a lawyer
- to **act for** a client
- to **sit** as a judge
- to **gain** some experience
- to **issue** a claim
- to **take** an exam

Preposition bank

- to be known **as** something
  'They are known **as** barristers.'
- to qualify **as** something
  'She qualified **as** a lawyer two years ago.'
- to go **into** partnership **with** someone
  'He is going to go **into** partnership **with** his brother.'
- to specialise **in** something
  'Tom specialises **in** commercial litigation.'
- to work **in** a business
  'He works **in** a law firm but she works in a bank.'
- to preside **over** a case
  'The insurance case has started and Judge Mortimer is presiding **over** it.'

Exercise 2

Look at the solicitors' advertisements on the opposite page. Give the name and the telephone number of the firm of solicitors that I should call if I have the following legal problems:

a I have reached the age of 50 and I am thinking about what I want to happen to my property after my death.

b I want to begin a business importing electrical goods from one European Union country into another and I want to know what the rules are.

c I am a woman who is angry that a man doing the same job in the factory where I work is paid more than I am.

d I am a visitor to England from the US. I came to work in London 18 months ago, with the permission of the British authorities. However, I only had permission to be here for a year and now I am afraid because I have broken the law.

Firm of solicitors	Telephone number
a	
b	
c	
d	

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1st call for action
Matthew Morrison Solicitors
51 Queen Anne Square, Chatsworth
*subject to assessment

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Exercise 3

Find a word in the advertisements that matches the following definitions.

a Not taking enough care over something that you are responsible for with the result that mistakes are made or someone is hurt.

The word is _____

b The process of legally transferring the ownership of land or buildings from one person to another.

The word is _____

c A situation where someone has to leave their job because they are no longer needed by their employer.

The word is _____

d An organization that exists in order to collect money, food or goods and give them to people who need them.

The word is _____

e The state of a business not having enough money to pay what it owes.

The word is _____

f A person or company which pays rent to another person to allow them to live in or use land or buildings.

The word is _____

Exercise 4

Say whether the following statements about the advertisements are true or false.

a	If I invent a new type of water heater that I don't want anyone else to be able to copy, I should call 07771 777 5454.	☐ **True**	☐ **False**
b	If I want to study law, I should call McCarthy Kyle and Co.	☐ **True**	☐ **False**
c	Matthew Morrison will always accept any client on a no win-no fee basis.	☐ **True**	☐ **False**
d	The 1st Call Accident Centre specialises in the law of tort.	☐ **True**	☐ **False**
e	Matthew Morrison deals with complaints about other solicitors.	☐ **True**	☐ **False**

Collocation bank

- to **make** a will
- a **breach** of contract
- to **be made** redundant

Preposition bank

- to import goods **from** another country
  'She imported her car **from** Belgium.'
- to import goods **into** a country
  'She imported her car **into** England.'
- to take care **over/with** something
  'Please take care **over/with** that document because it is very important.'
- to deal **with** something or someone
  'Could you please deal **with** Mr Jones for me as I am busy this morning?'

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AREAS OF LAW

Exercise 1

Look at the words in the box and decide if they come from **civil** *law or* **criminal** *law.*

a robbery	☐ **criminal**	☐ **civil**	**e** litigation	☐ **criminal**	☐ **civil**
b contract	☐ **criminal**	☐ **civil**	**f** sue	☐ **criminal**	☐ **civil**
c partnership	☐ **criminal**	☐ **civil**	**g** business	☐ **criminal**	☐ **civil**
d prison	☐ **criminal**	☐ **civil**	**h** prosecute	☐ **criminal**	☐ **civil**

Exercise 2

Look at the categories of civil law and match them with the very simple definitions provided.

☐ **Maritime law**	☐ **I.T. law**
☐ **The law of tort**	☐ **Intellectual property law**
☐ **Business and company law**	☐ **Family law**
☐ **Contract law**	☐ **Employment/labour law**
☐ **The law of equity & trusts**	☐ **The law of real property/conveyancing**

a The law that deals with the protection of the rights of inventors (who might invent a new drug or machine) or artistes (who might write a book or a song).

b The law that deals with situations where someone has control of property for a period of time and must look after it for the benefit of someone else.

c The law that deals with events such as divorce and the custody of (the right to look after) children.

d The law that deals with everything connected with information and how it is passed between people, especially by means of the Internet.

e The law that deals with land, including transferring the ownership of buildings or land from one person to another.

f The law that deals with private agreements between people or companies and tries to make sure that no one suffers a loss if an agreement is broken.

g The law that deals with every citizen's responsibility not to harm other people in any way, even if it is not a contractual or criminal situation.

h The law that deals with people's rights, pay or conditions in the workplace.

i The law that deals with the way businesses are set up (created) and run (operated) and how they must work in relation to each other and the general public.

j The law that deals with everything connected with the sea or ships.

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Exercise 3

Look at the situations below and decide which area of civil law is relevant.

a Anna agreed to pay Paul £4000 to landscape the garden at her new house. Paul has now finished the work but Anna says she is not satisfied with it and she has refused to pay him.

The area of law is _____

b Caroline and Susan want to start a business together. They need a solicitor to draft an agreement for them about how they will share all the responsibilities of the business.

The area of law is _____

c Daniel wants his two year old grandson, Wayne, to have his house when he dies. However, if Daniel dies before Wayne is 21 years old Daniel wants his friend, Harry, to look after the house until Wayne reaches 21 years old.

The area of law is _____

d Emily has been in hospital and has been very ill after an operation. She thinks that the doctor was negligent and that he has made her illness worse by his actions. She wants to claim damages.

The area of law is _____

e Bill has been married to Ruth for 14 years. However, he now wishes to leave Ruth and live with Jane. Bill and Ruth cannot decide how to share their property between them.

The area of law is _____

f Phillip has received an offer to buy his house, but there is a problem with the exact position of the boundary. The buyer's solicitor must check this before the contract is signed.

The area of law is _____

g Elisabeth's company transports goods from South America to England by ship. However, there was a bad storm at sea last week and the ship carrying the goods sank off the coast of France.

The area of law is _____

h David has been using the Internet to send a lot of private emails at work and his boss says that this is an abuse of the time for which he is paid. David has been sent home from work on full pay because his boss is investigating the situation.

The area of law is _____

Collocation bank

- to **pass** information
- to **run** a business
- to **suffer** a loss
- to **draft** an agreement
- to **set up** a business
- to **claim** damages

Preposition bank

- to pass information **between** two people or **among** a group of people

  'Once the confidential information had passed **between** the two of them, it was known **among** the whole group in the office in just a few days.'

- to be married **to** someone

  'She has been married **to** Peter for seven years.'

- to be **on** full pay

  'The company suspended him from work **on** full pay.'

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THE REGISTER OF LETTER WRITING

Exercise 1

Diana Williams has received this letter from a student at the school where she gave her talk. The words that have been underlined are too informal. Complete the same letter on the next page by choosing a better word or phrase from those in the box.

6 The Gate
Chatsworth
CH15 2MM

24 April 20XX

Miss Diana Williams
Chester and Pelton, Solicitors
227 Gallowgate
Chatsworth
CH1 4NG

Dear Miss Williams

Your talk at Chatsworth Hill School last week

Thank you very much for the talk that you gave to our class on Tuesday. It was very interesting. I am thinking very seriously about becoming a lawyer and I hope that you can answer some questions about one or two things that were not included in your talk.

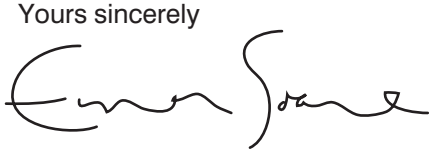
(**a**) In the first place, I am a little worried about the process of (**b**) using the civil court to start off a legal process. I am thinking of getting a claim form and some leaflets to try to find out more. If I go to the County Court in Chatsworth, will I be allowed to pick up a claim form just to look at? Also, could you tell me a little more about (**c**) writing more complicated legal documents such as contracts? I am very nervous about this part of the work. My mother and father bought a new house recently and the solicitor who did the (**d**) real estate transfer of ownership seemed to do a lot of very difficult paperwork. What happens if I make a mistake? Can the client (**e**) start a case in the court if I give them (**f**) wrong advice?

Also, you said that in the future there is going to be a lot of (**g**) discussing problems with someone who can help find an agreement between clients instead of going to court so often. This worries me a little. Does it mean that there will be less work for lawyers and some firms may think about making people (**h**) out of work?

(**i**) Last, you said that lawyers usually work in partnership and are rarely (**j**) lawyers who work alone. What will happen if I join a partnership about (**k**) getting the usual pay from my law firm when I am ill, or when I have a baby and I need to take (**l**) some time away from work to look after him or her?

Thank you in advance for your help.

Yours sincerely



Emma Soame

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- mediation
- drafting
- maternity leave
- sick pay
- Finally
- conveyancing
- Firstly
- negligent
- sue
- redundant
- issuing a claim
- sole practitioners

6 The Gate
Chatsworth
CH15 2MM

24 April 20XX

Miss Diana Williams
Chester and Pelton, Solicitors
227 Gallowgate
Chatsworth
CH1 4NG

Dear Miss Williams

Your talk at Chatsworth Hill School last week

Thank you very much for the talk that you gave to our class on Tuesday. It was very interesting. I am thinking very seriously about becoming a lawyer and I hope that you can answer some questions about one or two things that were not included in your talk.

(**a**) _____, I am a little worried about the process of (**b**) _____. I am thinking of getting a claim form and some leaflets to try to find out more. If I go to the County Court in Chatsworth, will I be allowed to pick up a claim form just to look at? Also, could you tell me a little more about (**c**) _____ more complicated legal documents such as contracts? I am very nervous about this part of the work. My mother and father bought a new house recently and the solicitor who did the (**d**) _____ seemed to do a lot of very difficult paperwork. What happens if I make a mistake? Can the client (**e**) _____ if I give them (**f**) _____ advice?

Also, you said that in the future there is going to be a lot of (**g**) _____ between clients instead of going to court so often. This worries me a little. Does it mean that there will be less work for lawyers and some firms may think about making people (**h**) _____?

(**i**) _____, you said that lawyers usually work in partnership and are rarely (**j**) _____. What will happen if I join a partnership about (**k**) _____, or when I have a baby and I need to take (**l**) _____?

Thank you in advance for your help.

Yours sincerely

Emma Soame

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LISTENING

Exercise 1

Listen to this trainee lawyer speaking about his experience of working for a major law firm in London. Some words are missing from the text. Listen carefully and write the missing words in the box below.

'My name is Rob Jones and I am a trainee with a law firm. I've always wanted to be a **(a)** _____ and I can't imagine doing any other job. I started working here at Taylor Wallis a year ago. Taylor Wallis is a global law firm with its headquarters in the City of London. I studied law at Manchester University but I wanted to do my training contract in London because I am interested in **(b)** _____ law and banking and I think the best positions with the top law firms are here. I think my parents were disappointed that I didn't become a **(c)** _____ and work in chambers and wear a wig in court but I wasn't interested in that at all!

With this law firm the two-year training contract is divided into four periods. Each six-month period is called a 'seat'. My first seat was in the **(d)** _____ department. That really just means dealing with companies and businesses. I was involved in meeting clients, **(e)** _____ documents and took part in some very high value deals. Of course, I had lots of support from the experienced people working on my team (we call them the principals) but I was surprised at how much responsibility they gave me.

My second seat was in the Property department. This involved **(f)** _____ for clients who were buying and selling domestic and commercial property, much of it office buildings here in London. I was able to get some experience of **(g)** _____ as well as a little landlord and **(h)** _____ law when we dealt with rentals.

Next I will be moving into the **(i)** _____ Property department. I'm really pleased about that as it covers quite a few different areas of law and can involve famous clients. At the moment the department is dealing with a breach of copyright case for a famous musician.

I hope to stay with Taylor Wallis when I **(j)** _____ as a lawyer next year. In fact, I'm looking forward to being based in London for most of my legal career.'

a _____	**f** _____
b _____	**g** _____
c _____	**h** _____
d _____	**i** _____
e _____	**j** _____

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USING YOUR KNOWLEDGE

1 Collocation review

Complete these sentences with a collocation that you have seen.

a You are 50 years old now Mr Johnson, you should really think about _____ a will.

b If you do not honour your side of the agreement that you have signed, I'm afraid I will have to sue you for _____ of contract.

c I have spent the last few hours _____ a business partnership agreement for two new clients.

d I finished my training contract and started work two years ago, so I'm fairly new to the legal profession. When did you _____ as a lawyer?

e I am thinking of _____ a new business and I need some advice about how to start.

f She has been _____ her own business for several years now and she has been very successful.

g There are two separate professions who are allowed to _____ law in England but in the USA they don't make this division.

h I'm afraid my client _____ a very serious loss due to your client's actions.

i We are starting proceedings immediately and we will be claiming _____ of £10,000.

j I am going to _____ my law exams in June next year.

2 Vocabulary review

Complete these sentences with a word that you have seen.

a A person who pays rent to a landlord is a _____.

b He has worked for that company for 20 years but business isn't good at the moment and they might have to make him _____.

c They went into _____ last year, which means they own and run the business together.

d She is an expert in _____ procedures. She deals with companies that don't have enough money to pay their debts.

e She deals with _____. It concerns the buying and selling of land and houses and making sure the ownership of them is legally transferred.

f The process of two people talking about their legal problem with an independent person to help them agree on a solution is called _____.

g If you want to sue someone who hasn't been careful enough, the grounds for your case would probably be _____.

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h The type of lawyer who works in chambers and pleads cases (usually in the higher courts) is known as a _____.

i Things that are produced in order to be sold are called _____.

j A lawyer in the USA is usually known by the general name of _____.

---

3 Preposition review

Complete these sentences with the correct preposition.

a I am working _____ a very interesting merger project at the moment.

b A landlord is a person who receives rent _____ someone.

c I'm afraid that this firm does not deal _____ criminal law.

d I am based _____ Stockholm at the moment.

e In your claim form you have made some very serious allegations _____ my client.

f She imports goods _____ Germany from China.

g Which judge is presiding _____ this case?

h We will lend you the money subject _____ confirmation of the amount of your salary.

i Please send a cheque _____ £20 to this address.

j Have you heard the news? Jennifer and Steven have gone _____ partnership.

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TOLES HIGHER EXAM PRACTICE

Exercise 1

There is a word or phrase missing from the following sentences. For each sentence choose the word or phrase which best fits into the space from the options provided. ***Put a circle around the correct answer on the answer sheet****.*

Do not mark more than one answer for each sentence.

Example: If a person loses his or her job for a reason that is not valid it is called unfair (*) _____.

1 Solicitors are allowed to (1) _____ clients in court.

2 This is a criminal (2) _____, so I will have to refer you to a colleague who deals with criminal law.

3 I studied some landlord and (3) _____ law when I was at university but I don't remember it now.

4 It is legal in England and America for some lawyers to work on a no win-no (4) _____ basis.

5 I don't think I will ever want to (5) _____ as a judge because I enjoy my job as a solicitor.

6 I think it is fair that everyone gets (6) _____ pay for doing the same job.

7 I have decided to specialise in land law so I expect to be doing a lot of (7) _____.

8 My law firm has a good reputation for handling (8) _____ property cases, especially if computer software is copied without the designer's permission.

9 If a lawyer is allowed to be heard in a particular court we say that he or she has right of (9) _____.

10 If you want the judge to award you damages from the defendant you will have to prove to the court that you have (10) _____ a loss.

Answer Sheet

Example: (*)	**A** firing	**B** redundancy	**C** dismissal	**D** release
(1)	**A** talk for	**B** act for	**C** speak for	**D** advocate for
(2)	**A** problem	**B** topic	**C** subject	**D** matter
(3)	**A** renter	**B** occupier	**C** tenant	**D** resident
(4)	**A** payment	**B** fee	**C** salary	**D** money
(5)	**A** sit	**B** practise	**C** arbitrate	**D** rule
(6)	**A** same	**B** equivalent	**C** alike	**D** equal
(7)	**A** transferring	**B** assigning	**C** relocating	**D** conveyancing
(8)	**A** invention	**B** creative	**C** intellectual	**D** original
(9)	**A** speaking	**B** consultation	**C** hearing	**D** audience
(10)	**A** suffered	**B** experienced	**C** had	**D** endured

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Exercise 2

Read the text below and think of the word that best fits each space. Use only one word in each space. Write your answers in the box below.

There is an example at the beginning (*).

Barristers at work

Life as a barrister is prestigious but it can also be extremely stressful. Julia de Burca is a barrister in London. The first difficulty Julia had was to (*) _____ as a barrister at all. Only 500 or so law students manage to pass the Bar Vocational Course in England and Wales every year. In an average year approximately 1,500 students begin the course, so many do not make it.

The Bar Vocational Course is described as a bridge between the academic study of law and having to actually (1) _____ law in the real world. Julia passed the course three years ago.

In a typical day Julia leaves her flat at 7.30am and arrives at (2) _____, the special name for a barrister's office, at 8.30am. Julia shares a building with 14 other barristers. However, they are not partners. Barristers are allowed to share office accommodation but they are not allowed to form (3) _____. Every barrister is self-(4) _____.

If she is representing a client that day Julia travels directly to court. Speaking on behalf of a client in court is called (5) _____ a case. As a barrister, Julia has the right of audience in court at every level. She is a confident (6) _____, which means that she is skilled at speaking in court. Julia is very successful in court, as she loves public speaking. She is also required to do a lot of research and a lot of (7) _____, which means writing legal documents. On days when Julia is not in court she spends her time preparing cases and writing opinions. She usually leaves work at around 7.30 pm, taking any work that is not finished with her. Julia often works long hours over the weekend.

Julia is a specialist in insolvency, so she advises clients who (8) _____ money but for some reason they cannot pay. All of Julia's clients are companies. When a company has financial problems, Julia will advise the company if it can legally continue trading. She sometimes has to defend clients in court when legal (9) _____ have been issued against them. If her client loses the case and the judge awards (10) _____ to the claimant then Julia will advise her client on what to do next.

Example (*) qualify

(1)	(6)
(2)	(7)
(3)	(8)
(4)	(9)
(5)	(10)

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Listening

Exercise 3

Listen to the conversation between a lawyer and some students. Answer the questions below.

1 How long has Helen Reay been working as a solicitor?

2 What is the subject of Helen Reay's university degree?

3 How long a period of study is the Post-Graduate Diploma in Law?

4 What reason does Helen Reay give for law firms employing lawyers whose first degree is not in law?

5 What is the LLB?

6 What is advocacy?

7 When Helen Reay speaks about the Legal Practice Course she mentions four skills that are taught on the course. Two of the skills are drafting documents and advocacy. What are the other two?

8 One of the students names an area of study that she is not very good at. What is it?

9 Helen Reay says that getting a training contract with a law firm after university is a competitive business. What reason does she give for that?

10 What is the roll of solicitors?

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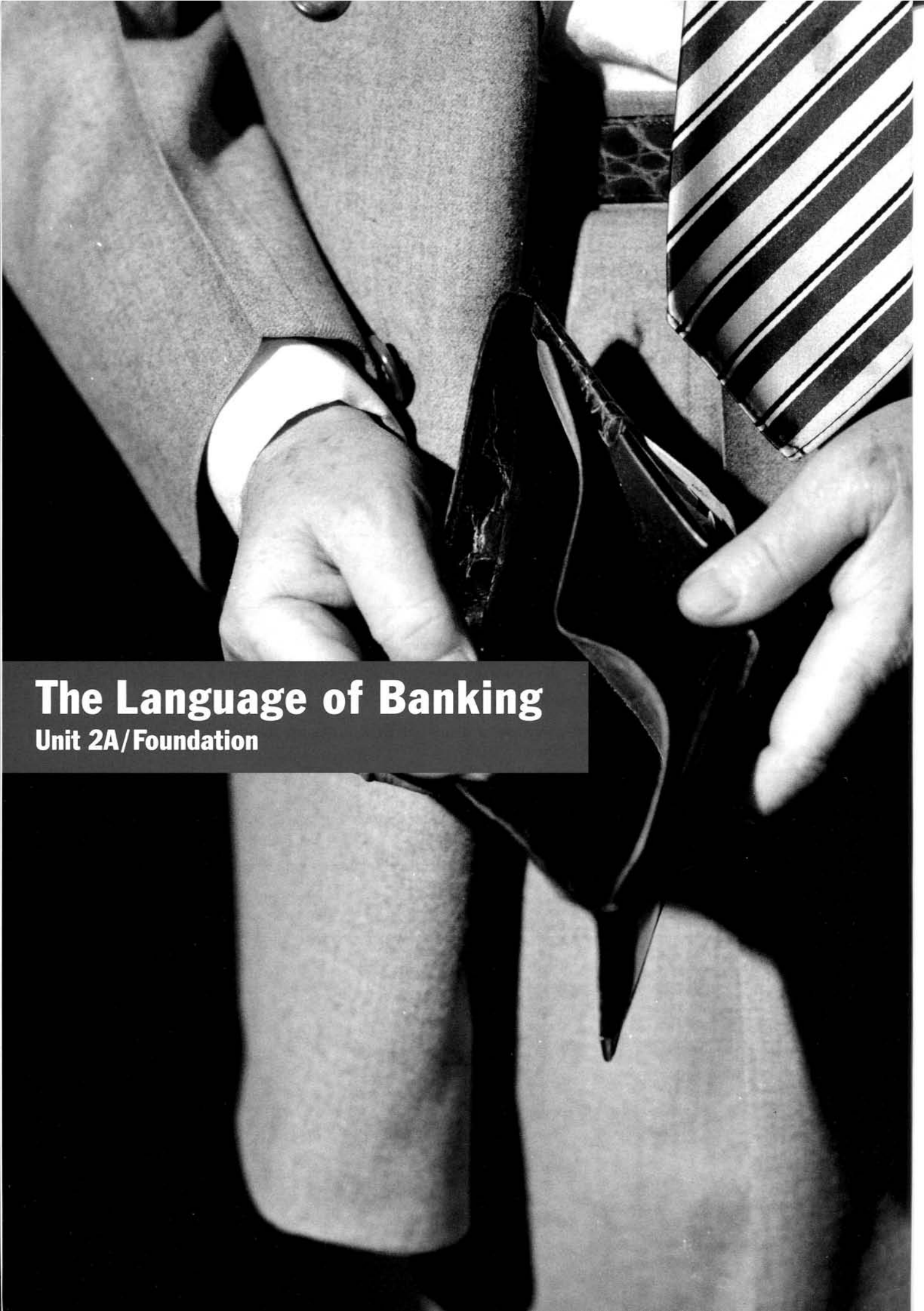

The Language of Banking

Unit 2A/Foundation

THE LANGUAGE OF BANKING

A NEW BANK ACCOUNT

Exercise 1

Look at this advertisement. It is for a bank that would like to find new customers. Look at the words that are ***highlighted*** *in the advertisement. Without using a dictionary decide if each word is a verb, a noun or an adjective.*

Key features and benefits of our

GOLD ACCOUNT

For all **eligible** applicants

■

Free everyday banking on your GOLD **current** account. Pay no **charges** in England to **issue** cheques, to **withdraw** cash using the ATM network, to make automated payments or to receive a monthly **statement**.

■

Free Telephone Banking.

■

Quick and straightforward system to **deposit** cash and cheques – no queueing necessary.

■

24/7 Internet Banking. Do your banking how you want to when you want to. **Transfer** your cash, check your **balance**, look at your statements or pay your **bills** any time you like.

■

No arrangement **fee** on an **overdraft** up to £5000 (subject to status).

■

Chip and PIN technology for your safety.

Verb	Noun	Adjective

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Exercise 2

Here are the definitions of the words in Exercise 1. Put the correct word into each sentence to complete the definition.

eligible	**charges**	**withdraw**	**deposit**
balance	**fee**	**current**	**issue**
statement	**transfer**	**bill**	**overdraft**

a Your _____ is the amount of money that you have got in your bank account.

b To _____ money means to put it into a bank account.

c A _____ account is a bank account that you can use at any time. It is called a checking account in the USA.

d If you _____ a cheque it means you give a cheque to someone and you validate it by signing it.

e An _____ is the amount of money you can take out of the bank even though your account does not have that much money in it.

f A _____ is a demand for payment for goods or services you have received.

g A _____ is a payment that you have to make to a professional person to do something for you.

h To _____ money means to take money out of a bank account.

i If you _____ cash you move it electronically from one bank account to another.

j If you are _____ for something it means that you are the right kind of person to have something, for example, because you are the right age or you have enough money.

k Bank _____ are payments that you have to make to the bank for using your bank account.

l A bank _____ is a document that your bank sends to you. It tells you when you deposited money, when you withdrew money and how much you have in the account at the moment.

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Help desk

What do these words mean?

an applicant – a person who wants to ask for something like a job or a bank account.

an ATM machine/the ATM network – the machines that give money to bank customers (Automated Telling Machines). In the UK an ATM is called a cashpoint.

an automated payment – a payment that your bank will make every week or every month without needing your permission to do it each time.

straightforward – simple and easy to understand.

subject to status – depending on your age or how much money you have, for example.

chip and PIN – the system of security for using cards which contain a microchip. You have to put your card into a machine and then enter your secret Personal Identification Number (PIN).

to validate something – to make something legally acceptable.

Exercise 3

Alison Goldsmith wants to open an account with the bank. Here is part of a conversation she has on the telephone with one of the bank's employees. Put the conversation in the correct order. There is an example which is the start of the conversation.

a 'I might be interested in that. What benefits does the GOLD account have?'

b 'Hi. My name is Alison Goldsmith and I'm interested in opening a current account.'

c 'Well, you can check your balance online 24 hours a day. And it has free telephone banking. Another good thing is you will pay no charges to issue cheques or withdraw cash.'

d 'Hello, Royal Chatsworth Bank. Carla speaking, how may I help you?'

e 'That sounds very good. I'm busy, so it would be very handy to be able to do my banking on the Internet. I don't issue many cheques these days but I withdraw cash almost every day so doing that for free will save me quite a lot in bank charges.'

f 'Certainly madam. We have a few different types of current account. Shall I give you some details about our GOLD account? And then we can check to see if you are eligible for it.'

g 'OK Ms Goldsmith. I need to ask you some questions. It won't take too long...'

1 d **2** **3** **4** **5** **6** **7**

Exercise 4

Jumbled words. Look at the definitions below. The letters of the words that belong with each definition are mixed up. Put the letters in the correct order to spell the words. The first letter of each word is there for you.

Example: An amount of money paid into a bank account. **C**REDIT **(DRICET)**

a An amount of money that goes out of a bank account. **D**_____ **(TEBDI)**

b A word for *all* the money that you receive from your salary or from other things. It could be every month or every year. **I**_____ **(MIENOC)**

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c A word for *all* of the money you spend. It could be every month or every year.

O_____ (**GSONGUIOT**)

d A verb which means that you give something (often money) to someone else for a period of time. They must give it back to you. **L**_____ (**DELN**)

e A verb which means that you take something (often money) from someone else for a period of time. You must give it back to them. **B**_____ (**ROBWOR**)

f To have to pay some money to someone else. **O**_____ (**WOE**)

g A general word for money which you owe to someone else. **D**_____ (**BETD**)

h The colour we say your bank account is in if you spend more money from your account than you have in it. **R**_____ (**EDR**)

i The colour we say your bank account is in if it has some money in it. **B**_____ (**CLKBA**)

Exercise 5

Put the correct word from Exercise 4 into these sentences.

a I have an overdraft facility of £200 on my bank account. It means I can go £200 into the _____.

b My account shows two _____ for yesterday. One is for a pair of shoes that I bought when I was shopping in London and the other one is for paying for a repair to my car. A total of £445 went out of my account.

c I need to _____ some money because I want to buy a new computer and I don't have enough money of my own.

d I will ask the bank to _____ me £2000 so I can buy that computer.

e I have _____ which add up to £500, because I have to pay back £200 to my parents and £300 to the bank.

f I _____ £500 in total, £200 to my parents and £300 to the bank.

g I receive a salary of £975 each month. I also teach a French evening class twice a week, for £20 every class. My total monthly _____ is £1135.

h There are just two _____ showing on my bank statement. One is my salary and the other is some money that my mum paid into my account for my birthday.

i I did some extra work last month and yesterday they paid me for it. My bank account is finally in the _____. I'm very pleased that I don't have an overdraft any more.

j To own a car is very expensive as you have to pay for petrol, insurance and road tax. I am trying to reduce my total _____ so I decided to sell my car.

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Exercise 6

Alison Goldsmith opened an account yesterday with the Royal Chatsworth Bank. This morning she received this letter from the bank. Read the letter and decide which is the correct preposition from the two possibilities. Write your answers in the spaces below.

The Royal Chatsworth Bank
1 St Joseph's Square
Chatsworth
CH1 2DD

20 January 20XX

Ms Alison Goldsmith
22 Bluebell Crescent
Chatsworth
CH3 7FL

Dear Ms Goldsmith

Your GOLD ACCOUNT with The Royal Chatsworth Bank

Thank you for opening an account (*) **with/in** the Royal Chatsworth Bank. Your GOLD account number is 0008786598. You will receive a debit card and a PIN number (**a**) **at/within** the next three days. You can change this PIN number (**b**) **from/at** any ATM machine.

As a GOLD account customer you are eligible (**c**) **for/to** a wide range of services. These include:

- Call into your local branch (address above) for free and friendly advice 9am – 5pm Monday to Friday
- Larger branches open Saturday mornings (see website for details)
- Check and print off your balance (**d**) **to/at** any of our ATMs
- View and print off your current statement online
- Make bank transfers online
- Order foreign currency (**e**) **from/for** any branch
- Very competitive overdrafts and loans with low interest.

We hope you will be very happy (**f**) **for/with** your new GOLD account. If you have any complaints or suggestions about how we can improve our service to you please call into your branch or telephone us.

Yours sincerely

Michael Rose
(Account manager)

Answers

Example (*) with **a** _____ **b** _____ **c** _____ **d** _____ **e** _____ **f** _____

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Exercise 7

After Alison read the letter she had the following questions. Match each question with the bank's answers.

Alison's questions

e **What is an account number?** (*)

What is a branch of a bank? (1)

What is foreign currency? (2)

What is an ATM machine? (3)

What is a debit card? (4)

What is an overdraft? (5)

What is a loan? (6)

What does 'print off your balance' mean? (7)

What does 'make bank transfers' mean? (8)

What is interest? (9)

What is a PIN number? (10)

Bank's answers

a 'It is an amount of money that you owe to the bank because you withdraw more from your current account than you have in it.'

b 'It is a card that allows you to withdraw cash from your current account or pay for goods or services electronically by taking money out of your current account.'

c 'It is an amount of money that you borrow from the bank for an agreed period of time.'

d 'It means to move money electronically from one bank account into another bank account.'

e 'It is a personal number that identifies your bank account. No one else has the same number.'

f 'Each country has its own currency. It is the money in coins and notes that people use in that country.'

g 'It means to look at how much money you have in your bank account and receive a piece of paper showing that amount. You can do this at the bank's ATM machines.'

h 'It is a local office or bureau of your bank.'

i 'It is a machine that is often outside a bank. It will give you money from your current account if you put in your debit card and then enter your PIN number.'

j 'It is the amount of money that a bank charges you for a loan or overdraft. We also pay interest to you on any money you save at our bank.'

k 'It is your personal identification number. This allows you to use your debit card at any ATM, or to pay for things with your debit card. You must never tell anyone else this number.'

WORKING IN A BANK

Read the following text about working in a bank. The most important words are in the key vocabulary below. Then complete the exercises that follow.

Key Vocabulary

- **account manager**
- **business account**
- **savings account**
- **interest rates**
- **credit card**
- **credit history**
- **defaulted on loans**
- **identity theft**
- **receipts**

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'My name is Michael Rose and I am an **account manager** for the Royal Chatsworth Bank. This means that I am not the general manager of the bank but that I have responsibility for looking after the bank accounts of certain customers.

We like to have new customers at the bank. New customers make money for the bank. When people have a current account with us we can then offer them other things from our range of services.

We can offer them other bank accounts, for example. If customers have a business we can open a **business account** for them. Or, if they want to save money for the future or for their children, we can offer them a **savings account**. We offer good **interest rates** on all our savings accounts. For example, the interest rate on our SmartSave account is 4·3%. This means for every £100 that someone saves we pay interest of £4·30 each year.

The bank also offers a **credit card** to customers who are eligible. A credit card allows people to buy things and pay for them later. It doesn't take their money out of their bank account immediately in the same way as a debit card. This means that we have to be very careful before we issue a credit card to someone. People can create big debts quite quickly! One of the things we do is to check a customer's **credit history**. If they have a good history of paying for things on time we are happy to give them a credit card. If they **defaulted on loans** or credit agreements in the past then we will refuse them a credit card. If someone defaults on a loan it means that they don't pay the money back and the bank might have to go to court to try to get its money.

One of the biggest problems we have with credit and debit cards these days is **identity theft**. Have you heard about it? If someone has your address and your credit card or debit card details they can use your money to buy things or even to take money out of your bank account. We have to tell all of our new customers to be careful. In fact, we give our new business customers a free shredder when they open their account. A shredder is a machine that cuts documents into tiny pieces so that no one can read them. We recommend that all of our customers destroy or shred old bank statements and credit card **receipts** rather than throw them away. A credit card receipt is the piece of paper that proves that you have paid for something with your card. It is very dangerous to lose it or throw it away because it might fall into the wrong hands.'

Exercise 1

Answer the following questions using a full sentence.

Example question: What is Michael Rose's job?
Example answer: Michael Rose is an account manager for the Royal Chatsworth Bank.

a Why does the bank like to have new customers?

Answer: _____

b What can the bank do for customers who have a business?

Answer: _____

c What interest rate does the bank offer on its SmartSave account?

Answer: _____

d When does a debit card take money out of someone's account?

Answer: _____

e What does to default on a loan mean?

Answer: _____

f If a stranger has your address and your credit card number what can they do?

Answer: _____

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Exercise 2

Decide if these statements are true or false.

a	Michael Rose is responsible for the accounts of all of the bank's customers.	**True**	**False**
b	Every customer of the bank is offered a credit card.	**True**	**False**
c	People who have a bad record of paying back their debts won't be allowed to have a credit card from this bank.	**True**	**False**
d	The bank offers to shred old bank statements for its customers.	**True**	**False**
e	A receipt is the same thing as a bill.	**True**	**False**

LOANS

Exercise 1

The application. Alison Goldsmith decides to take out a loan. She has to give the following information on the application form. Read the information in the box and answer the questions.

> Alison Goldsmith is 28 years old. She is single. She is a photographer. She moved to Chatsworth six months ago. She bought a house. She bought 22 Bluebell Crescent, Chatsworth. She would like to take out a loan. She would like to borrow £5000 from the Royal Chatsworth Bank. She wants to apply for the loan by posting her application to the bank because her home computer is broken at the moment so she can't do it online. She knows that the loan agreement requires her to give the bank a guarantee that they will have their money back. This guarantee is her house. Alison wants to pay the money back in equal monthly parts.

a What is the name of the **borrower**? _____

b What is the name of the **lender?** _____

c What **security** is the borrower giving the lender? _____

d What is the address of the **property** offered as security? _____

e What is the **marital status** of the borrower? _____

f What **sum** of money does the borrower wish to have? _____

g Does the borrower wish to **email** her application to the bank? _____

h Does the borrower wish to pay the loan back in a single payment or does she want to pay by **instalments?** _____

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Exercise 2

The decision. The bank must look at Alison's loan application and decide whether to lend her the money that she wants. Read the information in the box and answer the questions.

> The Royal Chatsworth Bank looked at Alison's loan application yesterday. They looked at the information she gave to them and they had to decide if she is a good customer and that it is safe to lend money to her. To do this they had to check her credit history. Alison gave the bank permission to look at her credit history when she completed her application form. The information Alison gave to the bank is confidential. The bank promised not to tell anyone her personal details, for example, her address or her income.
>
> The bank said 'yes' to Alison's loan application. She received a letter from the bank this morning to tell her this, together with a loan agreement. The loan is for 36 months. The letter tells Alison that she must sign and return the loan agreement and then they will put the money into her current account. She cannot change her mind after the money is in her account.

a When did the bank **process** Alison's loan application? _____

b When did Alison **authorise** the bank to check her credit history? _____

c What did the bank promise not to **disclose** to anyone? _____

d Did the bank **approve** Alison's loan or refuse it? _____

e How did the bank **notify** Alison about their decision? _____

f What did the bank **enclose** with their letter? _____

g How long does Alison have to **repay** the loan? _____

h Can Alison **cancel** the loan after the bank credit the money to her account? _____

Exercise 3

Complete the following sentences with the correct preposition.

a I want to buy a new car, but I don't have enough money. I need to borrow £3000 _____ the bank.

b I need to apply _____ a loan of £2000.

c I am very pleased as the bank agreed to lend £1000 _____ me so that I can buy a computer.

d It's the end of the month and I only have £12.36 _____ my account. I'm glad it's pay day tomorrow.

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Problems in paying back a loan. There are two very important words connected with repayment problems. These are:

- **arrears** (noun)

Arrears means money that someone owes to someone and they promised to pay it back by a certain date but didn't. For example, in January, Harry took out a loan and agreed to pay it back in monthly instalments. Each instalment must be paid on the first day of every month. Each instalment is £100. If Harry doesn't pay on 1 February he has **arrears** of £100. If he doesn't pay again on 1 March, he has **arrears** of £200.

How are **arrears** different from debt?

Debt is not necessarily a bad thing. Most people have debt. Arrears are always a bad thing. It means you are not paying back your debt on the agreed date.

- to **accrue** (verb)

Accrue means to grow or accumulate. We use the word **accrue** to talk about accumulating interest. In our example, if Harry did not pay his monthly instalments in February or March he now has arrears of £200. Interest is **accruing** on the arrears at a rate of 15%.

Exercise 4

Put the correct word from the box below into the following sentences. You can use each word more than once.

- **arrears** - **accrue** - **accruing** - **debt**

a I owe money on two credit cards, I have a loan and I have an overdraft. I have a lot of _____ but I always make all of my payments on time.

b I couldn't make the repayment on my car purchase agreement last month as I don't have enough money. The car company sent me a letter yesterday to say that my account is £147 in _____.

c If your loan account falls into _____ the bank will write a letter to you and ask you to make the missing payment immediately.

d If you don't make a payment immediately, interest will _____ on the arrears at a rate of 10%.

e English people have a lot of _____ because everyone borrows a lot to have holidays or to improve their houses.

f Interest is _____ on your debt at the rate of 18%.

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UNIT 2A VOCABULARY CHECK

These are the important words that you have studied in Unit 2A. You should make sure that you know these words before you go on to Unit 2B.

account
account manager
accrue
applicant
apply
approve a loan
arrears
ATM
authorise
automated payment

balance
bank account
bank statement
bank transfer
bill
in the black
borrow
borrower
branch
business account

cancel
charges
cheque
chip and PIN
competitive
a credit
credit card
credit check
credit history
currency
current account

debit
debit card
debt
default
deposit
disclose

eligible
enclose

fee

identity theft
income
instalments
interest
interest rate
internet banking
issue

lend
lender
loan
loan rate

mail
marital status

notify

open an account
outgoings
overdraft
owe

pay
PIN number
process
property (house)

queue

receipt
in the red
repay

savings account
security
statement
subject to
sum

telephone banking
transfer

validate

withdraw

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TOLES FOUNDATION EXAM PRACTICE

Exercise 1

Look at the groups of words below. In each group, three of the words belong to the same subject area but there is one word that does not belong. Put a circle around the word that is the odd one out. Do not circle more than one answer for each sentence. There is an example at the beginning (*).

(*)	**A** cash	**B** cheque	**C** invoice	**D** credit card
(1)	**A** overdraft	**B** loan	**C** balance	**D** goods
(2)	**A** borrower	**B** litigation	**C** balance	**D** account
(3)	**A** branch	**B** manager	**C** statement	**D** tort
(4)	**A** credit	**B** owe	**C** interest	**D** grounds
(5)	**A** landlord	**B** savings	**C** outgoings	**D** money

Exercise 2

Read the following pairs of sentences. For each pair of sentences there are two possibilities, A or B. Decide which sentence uses the correct preposition. Write your answers in the box below. There is an example at the beginning (*).

Example

(*) (A) Your balance is the amount of money that you have in your bank account.

(B) Your balance is the amount of money that you have at your bank account.

1 (A) I'm interested for opening a new bank account.

(B) I'm interested in opening a new bank account.

2 (A) There is no arrangement fee for overdrafts over to £5000.

(B) There is no arrangement fee for overdrafts up to £5000.

3 (A) Is my client eligible for a loan?

(B) Is my client eligible with a loan?

4 (A) I have an overdraft facility of £1000 on my bank account.

(B) I have an overdraft facility to £1000 on my bank account.

5 (A) We charge interest on loans at a rate of 4.3% a year.

(B) We charge interest in loans at a rate of 4.3% a year.

(*) A	(1)	(2)	(3)	(4)	(5)

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Exercise 3

Read this newspaper article about a case in court and answer the questions that follow. Answer each question using a full sentence. No points are awarded for answers that are not a full sentence. There is an example at the beginning.

Chatsworth woman in bank victory.

A woman from Chatsworth won a case in court yesterday against her bank. Ella Moran (aged 35) took her bank to court claiming that the financial charges the bank makes to customers for unauthorised overdrafts is not fair. Ella's account is with the Glen Royal Bank, which has its head office in Edinburgh. The bank has a small branch in Talbot Road, Chatsworth, which opened in 1988.

Last year a government department called the Office of Fair Trading began an investigation of all UK banks following thousands of complaints from customers. People complained that some UK banks were charging their customers more than £100 for going over their agreed overdraft limit. The Office of Fair Trading will publish its report later this year, but Ella Moran decided to take legal action before this report is available. Ella Moran, who works for a Chatsworth travel agency, spoke to us outside the courtroom yesterday. She said 'I hope the Office of Fair Trading supports many other people. But I was too angry to wait for them to help me'.

Ella Moran's agreed overdraft limit with the Glen Royal Bank was £500. However, in March of this year Ella's pay arrived at her bank three days later than usual. This meant Ella's overdraft accidentally reached £560, as she didn't know her pay was late and withdrew money from her account. The bank charged her a penalty of £118.

Ms Moran told us 'I was very angry indeed. I think the amount the bank charges people is very unfair. I got out all of my old bank statements and it has happened before. Last year the bank charged me £50 for going over my overdraft limit by just £1.75. I decided to see a lawyer'.

Ms Moran was represented in court by Chatsworth solicitor, Barry Henshall. He told us 'This is a great victory for the consumer. It was not difficult, as the bank didn't file a defence. The bank has two weeks to pay my client £565. That pays back the unfair charges to Ms Moran as well as covering legal costs. We are delighted with today's result'.

Legal experts say that other unhappy customers should do the same as Ms Moran and take legal action against their banks for unfair overdraft charges. Consumer law says that penalty charges must only cover the real administrative cost to the bank and must not be used to make a profit. Banks are profiting from unauthorised overdraft fees by an amazing £4.7 billion a year. This amount will reduce very quickly if more customers follow the example of Ella Moran.

A spokesman for the Glen Royal Bank refused to comment on the judgment.

Example question: How old is Ella Moran?
Example answer: Ella Moran is 35 years old.

a Where is the head office of the Glen Royal Bank?

b When did the Chatsworth branch of the Glen Royal Bank open?

c Why did thousands of bank customers in the UK complain to the Office of Fair Trading last year?

d Why did Ella Moran take legal action before the Office of Fair Trading made its report?

e What was Ella Moran's agreed overdraft limit with the Glen Royal Bank?

f Why did Ella Moran's overdraft accidentally reach £560?

g Who acted for Ella Moran in court?

h Why did Ella Moran win her case very easily?

i Why did the bank have to pay £565 to Ella Moran?

j What does consumer law say that banks must not use penalty charges for?

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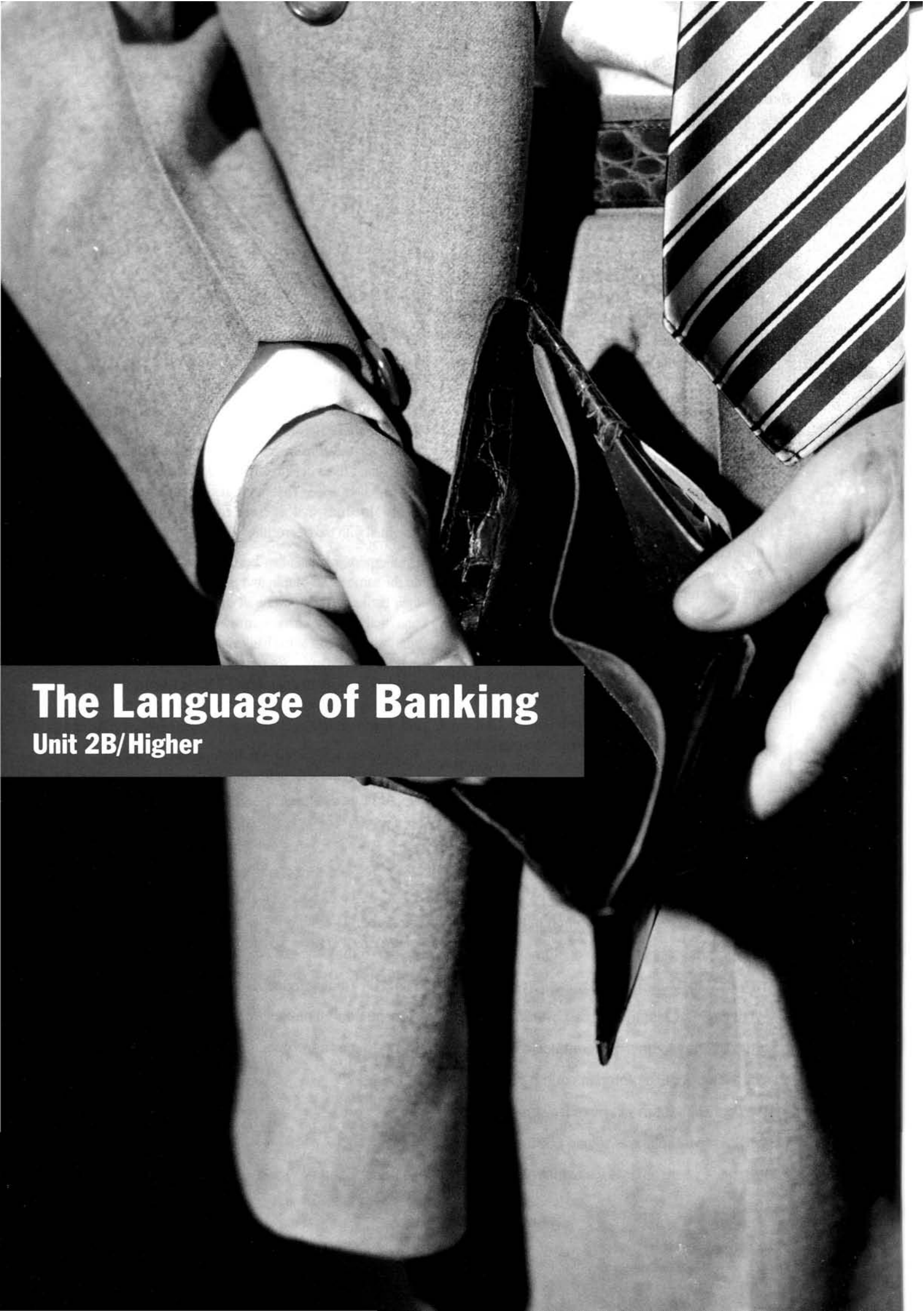

The Language of Banking

Unit 2B/Higher

THE LANGUAGE OF BANKING

A BANK ACCOUNT

Alison Finch has recently moved to the town of Chatsworth. She has just opened a new current account with the local bank, the Royal Chatsworth Bank. Because her annual income is over £30,000 Alison is eligible for a GOLD account. This is a current account which offers some privileges.

The bank has given a leaflet to Alison which explains the GOLD account. The front cover of the leaflet appears below. Read the information it gives to customers and do the exercise on the next page.

Welcome to your

RC

Royal Chatsworth Bank

GOLD ACCOUNT

Your Caring Bank
www.royalchatsworthbank.co.uk

SERVICES

- **Over 400 branches nationwide**
- **Convenient telephone banking**
- **Internet banking for quick and easy transactions**
- **Competitive loan rates**
- **Instant decisions on loans**
- **Zero commission foreign currency**
- **Free legal information helpline.**

USING YOUR NEW ACCOUNT

- **Secure PIN number**
- **Easy paying-in facilities**
- **Withdrawal facility of up to £200 a day at ATM machines**
- **Interest-free overdraft facility***
- **Single card for debit payments and cash withdrawals**
- **Optional identity theft insurance**
- **Automatic travel insurance when you buy travel tickets using your GOLD account card.**

* Subject to conditions

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Exercise 1

A customer has telephoned the bank to ask for more information about the leaflet. An employee of the bank is explaining it in more detail. For each of her statements below, find the phrase from the leaflet which matches it.

Statement	Phrase from leaflet
Example: 'You are covered worldwide. You may claim up to £4 million towards the cost of emergency medical treatment abroad and the cost of returning you home.'	Automatic travel insurance when you buy travel tickets using your GOLD account card.
a 'We have a very straightforward, easy to use website. You can check your balance 24 hours a day and print off your current statement.'	
b 'All calls will be charged at local rates wherever you ring from in England and Wales. Our staff are there to speak to you whenever you need to.'	
c 'This number will be sent to you when you open your account. If you want to change it you can do so at any branch or at one of our ATM machines.'	
d 'This service provides information only. Please note that it cannot cover your legal costs or represent you in court.'	
e 'If you wish to go into the red by more than this amount please contact us for details of our interest rates for GOLD account customers.'	
f 'Borrowing for any reason, from buying a car to consolidating all of your debts, is quick and easy. You will have a decision within 15 minutes of making your application and if you are successful the money will be available to you the same day.'	

m

Preposition bank

- to open an account **with** a bank
  'I have two accounts **with** the Bank of Scotland.'
- to be eligible **for** something
  'You are not eligible **for** this type of account as you don't earn enough.'
- to make a withdrawal **from** a bank account
  'I withdrew £100 **from** my account this morning.'
- to be covered **by** an insurance policy
  'If I am ill when I am abroad the bill will be covered **by** my insurance.'
- to make a telephone call **from** a certain number or place
  'Hello, I am calling **from** Chatsworth.'
- to have a decision **within** a certain period
  'I'll let you know my answer **within** the next week.'
- to go **into** the red
  'My account has gone **into** the red by £48 because I had to pay my gas bill and didn't have enough money in my account.'

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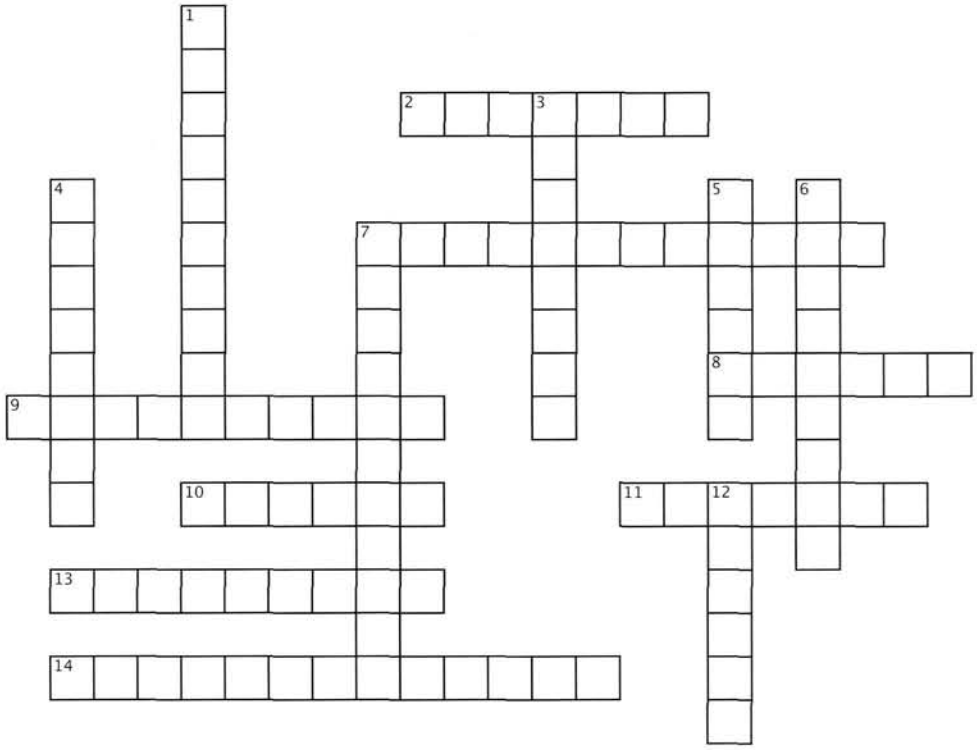
Collocation bank

- to **open** a bank account
- to **cover** your legal costs
- loan **rate(s)**
- to **withdraw** money from a bank account
- to **consolidate** your debts
- to be **covered** by an insurance policy
- a loan **application**
- interest **rate(s)**
- a **range** of services
- to **make** an application for something

Exercise 2

10 minute crossword. This crossword contains words that you have seen in unit 2A. Complete as much of the crossword as you can in 10 minutes to see how many of the words you can remember. Some of the words may have changed their form. For example, if you learned the verb ***to withdraw*** *in unit 2A, you may need the noun* ***withdrawal*** *to complete the crossword.*



Across

2. If a borrower does not make the repayments as agreed when he or she takes out a loan, the bank will eventually deem that borrower to be in _____ (7)
7. I need a loan. However, I want to borrow money as cheaply as possible. I will compare the _____ _____ offered by my bank with other High Street banks before I make an application (8, 4)
8. Not many people pay for things by writing a _____ these days, as most people prefer to pay by direct debit (6)
9. I took £100 out of my account yesterday. I made this _____ at an ATM machine (10)
10. The total amount of money that a person receives in a month from salary and other things. The opposite of outgoings (6)
11. The amount of money that you have in your bank account is formally known as your _____ (7)
13. How much money are you planning on _____ from your bank to buy a new car? (9)
14. In order to process your loan I need to ask about your_____ _____. Are you married, single or divorced? (7, 6)

Down

1. If I run out of money towards the end of the month I usually put any purchases I need to make on my _____ _____ (6, 4)
3. I am pleased to tell you that your loan application has been _____ and the money will be in your account today (8)
4. Please note that you are in arrears on your loan and interest is _____ day by day (8)
5. If you would like to know more about the bank's special offers to new customers, please make an appointment to speak to someone at your local _____ (6)
6. The bank's customers receive a _____ every month giving details of all activity on their current account (9)
7. I am repaying my loan in equal monthly _____ (11)
12. The opposite of borrower (6)

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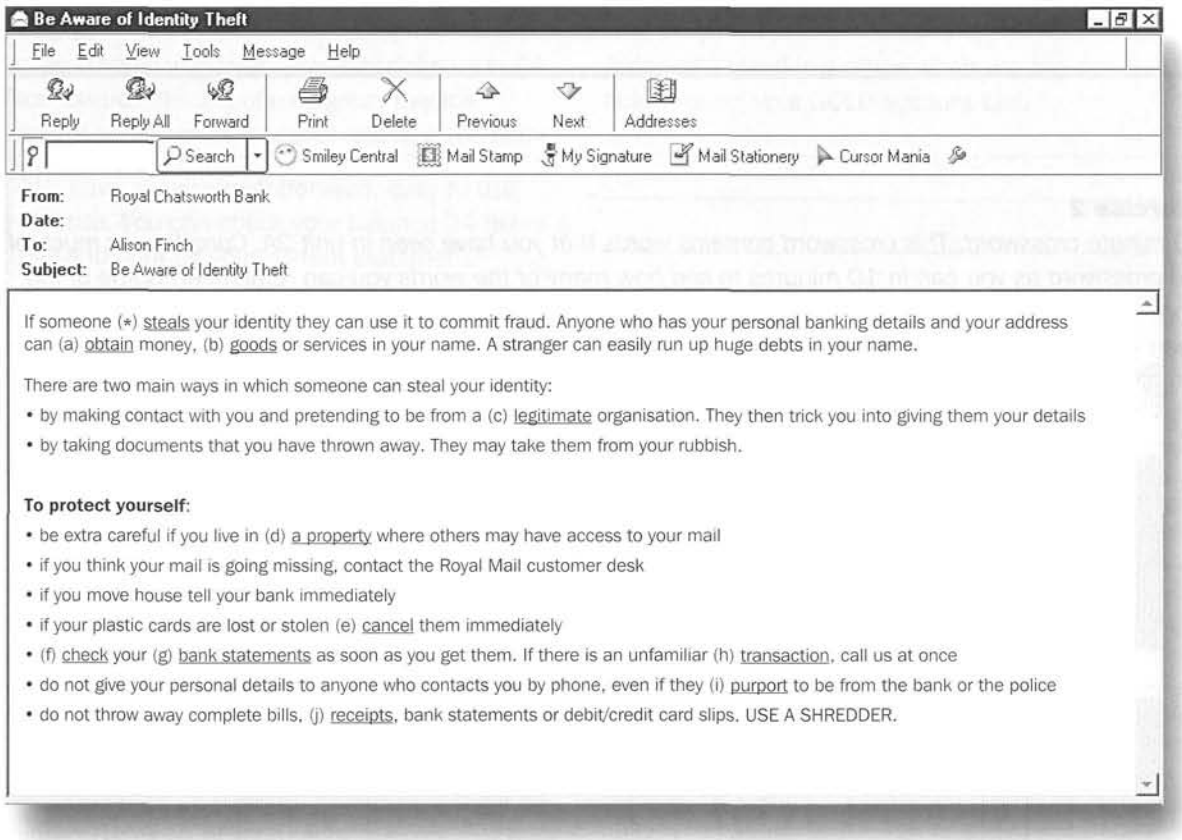
AN EMAIL FROM THE BANK

Exercise 1

Alison Finch has received this email from her bank. It talks about the problem of identity theft. Some of the words in the text are underlined. Match the underlined word or phrase with the definitions provided.



Be Aware of Identity Theft

File Edit View Tools Message Help

Reply Reply All Forward Print Delete Previous Next Addresses

Search Smiley Central Mail Stamp My Signature Mail Stationery Cursor Mania

From: Royal Chatsworth Bank
Date:
To: Alison Finch
Subject: Be Aware of Identity Theft

If someone (*) steals your identity they can use it to commit fraud. Anyone who has your personal banking details and your address can (a) obtain money, (b) goods or services in your name. A stranger can easily run up huge debts in your name.

There are two main ways in which someone can steal your identity:

- by making contact with you and pretending to be from a (c) legitimate organisation. They then trick you into giving them your details
- by taking documents that you have thrown away. They may take them from your rubbish.

To protect yourself:

- be extra careful if you live in (d) a property where others may have access to your mail
- if you think your mail is going missing, contact the Royal Mail customer desk
- if you move house tell your bank immediately
- if your plastic cards are lost or stolen (e) cancel them immediately
- (f) check your (g) bank statements as soon as you get them. If there is an unfamiliar (h) transaction, call us at once
- do not give your personal details to anyone who contacts you by phone, even if they (i) purport to be from the bank or the police
- do not throw away complete bills, (j) receipts, bank statements or debit/credit card slips. USE A SHREDDER.

Underlined words from the email	Definitions
(*) to steal means to...	...stop something or to make something void. (1)
a to obtain means to...	...document a customer receives from a bank giving details of payments in and out of their account. (2)
b goods are...	...take something that belongs to someone else.
c to be legitimate means to be...	...piece of business. (3)
d a property is a...	...claim or to declare that something is true. (4)
e to cancel means to...	...get possession of something. (5)
f to check something means to...	...piece of paper that proves that I have paid for something. (6)
g a bank statement is a...	...building (for example, a house). (7)
h a transaction is a...	...things that are made to be sold. (8)
i to purport means to...	...real, genuine, lawful. (9)
j a receipt is a...	...look at the details of something and make sure they are correct. (10)

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LISTENING

Exercise 1

Alison Finch has decided to apply for a loan with the Royal Chatsworth Bank. Listen to her interview with her account manager and complete this page of Alison's application form.

LOAN APPLICATION

Thank you for choosing to apply for a loan with the Royal Chatsworth Bank.

To apply online you need:

- To have a regular income and be aged 18 or over
- To have a bank account in England or Wales that can pay direct debits
- To be a permanent resident of England and Wales

SECTION 1: LOAN DETAILS

Purpose of the loan:

Loan amount: Repayment period:

SECTION 2: APPLICANT DETAILS

Title: Surname: Forename: Middle initial(s):

Date of birth: Email address:

Number of dependant children: Marital status:

Type of application: (single or joint)

Have you been known by any other name (inc. maiden name) in the last 5 years? YES/NO

SECTION 3: CURRENT ADDRESS DETAILS

House name/number: Post code:

Residential status: (tenant or owner)

Time at current address: (years and months)

Home telephone:

Mobile telephone number:

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THE LANGUAGE OF CONTRACT

Here is an extract from a loan agreement. It is a small part of the contract that Alison Finch has with her bank to use online banking services.

1. SECURITY MEASURES

1.1 The Customer is responsible for acting in accordance with all security procedures and for making sure that any other Users you have authorised also (**a**) _____ with all security procedures.

1.2 The Customer must take all reasonable steps to keep their Password secret and must not (**b**) _____ it to anyone else including family members, Bank staff or anyone on our 24-hour helpdesk.

1.3 If the Customer or any User authorised by the Customer thinks that a Password is known to someone else they must (**c**) _____ the Bank immediately. The Bank will temporarily (**d**) _____ the Customer's use of the Online Service until a new Password has been created. The Bank will try to resume a Customer's use of the Online Service as soon as we possibly can.

2. CARRYING OUT YOUR INSTRUCTIONS

2.1 The Customer can (**e**) _____ other Users to use the Online Service. The Bank does not need to get further authorisation or confirmation from the Customer.

2.2 The Customer will not be liable for instruction(s) from themselves or a User under the following circumstances:

- the instruction(s) are received after the Customer has informed us that the Password is known to someone else
- the instruction(s) were given as a result of some breach of security that the Bank does not (**f**) _____ to the Customer or a User
- The security codes have been breached due to the actions or negligence of the Bank.

2.3 The Customer will be liable for instructions in all other cases.

2.4 Once the Customer or a User has given an instruction it is not possible to (**g**) _____ or otherwise withdraw it. If circumstances should occur where the Bank (**h**) _____ it reasonable to try to reverse or otherwise (**i**) _____ invalid an instruction then the Customer will pay any related costs.

2.5 The Bank may not be able to (**j**) _____ a transaction immediately. If you need to be sure that an instruction has reached us or the time when it is carried out is particularly important the Customer should call the 24-hour number which was provided with their account details.

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Exercise 1

You will see that some of the words in the agreement start with a capital letter. This is because they are defined terms. They are words that are given a precise definition at the beginning of the agreement. Match these defined terms from the agreement with the definitions given below.

- **Customer**
- **Password**
- **User**
- **Bank**
- **Online Service**

Definitions

a _____ means the secret word or combination of a word and a number known only to a user which is used to confirm their identity and which gives access to the service.

b _____ means the system that allows customers to give instructions about their bank account using their computer.

c _____ means you, the client, the person who holds the account with the bank.

d _____ means any other person you may have given permission to use the service.

e _____ means the organisation registered as 'The Royal Chatsworth Bank'.

Exercise 2

Now complete the extract from the loan agreement with one of the following words.

- **inform**
- **suspend**
- **comply**
- **attribute**
- **process**
- **cancel**
- **deems**
- **render**
- **disclose**
- **authorise**

a _____ **b** _____ **c** _____ **d** _____ **e** _____

f _____ **g** _____ **h** _____ **i** _____ **j** _____

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Exercise 3

Read the loan agreement again and find the relevant clause or clauses that deal with the following situations.

a A customer has telephoned the bank to say that he has lost his wallet in central London and the wallet contained his password. Money is transferred out of the customer's account four hours later. The customer says that the bank is liable for this.

Relevant clause? _____

b A customer buys some music CDs online and then decides the same day that he doesn't want to buy them after all. The customer calls the bank to cancel payment but the bank says that it's not possible. The customer then demands that the bank refunds £30 for the unwanted CDs.

Relevant clause? _____

c A customer wants a payment to be made urgently to pay for some goods she wants to buy for her business. She authorises payment for the goods online, confident that payment will be made quickly because the system has always been fast before. Unfortunately the seller of the goods doesn't receive the payment on time and sells the goods to someone else. The customer is furious and demands compensation from the bank.

Relevant clause? _____

Collocation bank

- to **hold** an account with a bank
- to **render** something invalid
- to **take** steps to do something

Preposition bank

- a combination **of** two or more things
  'The password for my email account is a combination **of** letters and numbers.'
- information that is known **to** a person
  'Was the information known **to** anyone else except you?'
- to be registered **as** a particular company name
  'Her company is registered **as** Mitchell Holdings plc.'
- to behave **in** accordance **with** something
  'The bank's legal department must draft the contract **in** accordance **with** English banking law.'
- to be authorised **by** someone to do something
  'I am authorised **by** my head office to give you a few more days to pay.'
- to be liable **for** something
  'We will not be liable **for** any car that is left in the car park of the bank.'
- **under** the circumstances
  'I'm afraid that **under** the circumstances we will have to refuse you the loan.'
- to attribute something **to** someone
  'I attribute the success of the bank **to** our customer care service.'
- interest accrues **on** a debt or loan
  'I am writing to inform you that interest is accruing **on** your overdraft at the rate of 18%.'

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THE REGISTER OF LETTER WRITING

Exercise 1

Alison Finch has received this letter from her bank. Unfortunately, she hasn't made all of her loan repayments. The words that are underlined in the letter are too informal. Complete the same letter on the next page by choosing a better word or phrase from those in the blue box.

The Royal Chatsworth Bank
1 St Joseph's Square
Chatsworth
CH1 2DD

20th May 20XX

Ms Alison Finch
39 Belle Vue Avenue
Chatsworth
CH5 9QJ

Dear Ms Finch

Your loan account: Ref FIN/790R/000932RCB

I am writing to (**a**) tell you that your loan account with this bank, account number as provided above, has (**b**) got late in its payments.

As you were aware when you (**c**) got this loan for £5000 in January of this year you agreed to pay back the total amount over a period of 36 months in monthly (**d**) parts of £186.11 by direct debit from your current account. The bank has been unable to (**e**) get your monthly payment for the last two months as there have been insufficient funds in your current account.

Please note that interest is (**f**) growing on this outstanding amount and that the rate of interest (**g**) demanded by the bank on this outstanding amount is higher than our (**h**) normal rate.

Despite a letter to you earlier this month I see that we have received no (**i**) answer from you. If we do not hear from you within seven days of the date of this letter you will be deemed by the bank to be (**j**) not going to pay at all. The bank will then follow its usual recovery procedures through our legal department.

Yours sincerely

Michael Rose

Michael Rose
(Account manager)

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- **accruing**
- **in default**
- **charged**
- **response**
- **inform**
- **collect**
- **took out**
- **standard**
- **instalments**
- **fallen into arrears**

The Royal Chatsworth Bank
1 St Joseph's Square
Chatsworth
CH1 2DD

20th May 20XX

Ms Alison Finch
39 Belle Vue Avenue
Chatsworth
CH5 9QJ

Dear Ms Finch

Your loan account: Ref FIN/790R/000932RCB

I am writing to (**a**) _____ you that your loan account with this bank, account number as provided above, has (**b**) _____.

As you were aware when you (**c**) _____ this loan for £5000 in January of this year you agreed to pay back the total amount over a period of 36 months in monthly (**d**) _____ of £186.11 by direct debit from your current account. The bank has been unable to (**e**) _____ your monthly payment for the last two months as there have been insufficient funds in your current account.

Please note that interest is (**f**) _____ on this outstanding amount and that the rate of interest (**g**) _____ by the bank on this outstanding amount is higher than our (**h**) _____ rate.

Despite a letter to you earlier this month I see that we have received no (**i**) _____ from you. If we do not hear from you within seven days of the date of this letter you will be deemed by the bank to be (**j**) _____. The bank will then follow its usual recovery procedures through our legal department.

Yours sincerely

Michael Rose

Michael Rose
(Account manager)

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USING YOUR KNOWLEDGE

Collocation review

Complete these sentences with a collocation that you have seen.

a If you need a new bank account I suggest you _____ one with the Royal Chatsworth Bank, as it is a very efficient and reliable organisation.

b What _____ of interest does your bank charge its customers for a business start-up loan?

c I have _____ an application for a loan but I don't know at the moment if my application has been successful.

d I must go to an ATM machine immediately to _____ some money. At the moment I have nothing in my wallet!

e When I am at the ATM machine I will _____ the balance of my account as I am not sure how much money I have in there at the moment.

f My bank offers a very wide _____ of services, including telephone banking.

g The legal helpline that my bank provides will give me advice but it will not _____ my legal costs.

h I have a lot of debts and I am thinking of _____ them into one large loan that I can pay off over a long period of time.

i My bank does not always _____ a transaction immediately and I have to call the bank if I want to make sure that something has been done.

j I _____ a loan two years ago but I fell into arrears when I became unemployed.

Vocabulary review

Complete these sentences with a word that you have seen.

a My bank has over 500 _____ in cities and towns all over England.

b I need to ask my bank if I can have an _____ facility on my bank account. I need some extra money for a few months but I don't want a loan.

c If you use internet banking it is important that you never tell anyone your _____ or else that person could access your account online.

d The bank _____ all customers' use of online banking for a few hours yesterday but the service resumed after two hours.

e I am in arrears with my loan payments and interest is _____ on the outstanding amount.

f I am repaying my loan in _____ of £250 per month.

g If you do not repay your loan as agreed, the bank can decide that you are in _____, which means that the bank thinks you do not intend to repay the money that you owe.

h My bank _____ a very high rate of interest on arrears.

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i My bank account went into the _____ for a while last year but I paid the money back quickly as I hate being in debt.

j My bank sends me a _____ to my home address every month. This document tells me what has gone into my bank account and what has been paid out.

Preposition review

Complete these sentences with the correct preposition.

a Last year I opened an account _____ Lloyds Bank.

b Yesterday I withdrew £100 _____ the ATM machine on Cambridge High Street.

c My bank has written to me to say that I am not eligible _____ a loan.

d What is your date _____ birth and what is your marital status?

e How long have you been _____ your current address?

f I am authorised _____ my company to withdraw cash for my expenses.

g I am paying a very high rate _____ interest on my loan and I am thinking of transferring my business to another bank.

h I am paying back my loan _____ a period of five years.

i If we do not hear from you _____ seven days we will deem you to be in default.

j The bank will follow its usual recovery procedures _____ our legal department.

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TOLES HIGHER EXAM PRACTICE

Exercise 1

Read the text below and think of the word that best fits each space. Use only one word in each space. Write your answers in the box below. There is an example at the beginning (*).

The services offered by banks

Current accounts

Most banks offer customers a range of current accounts to choose from. A customer enters into a contract with the bank and must agree to the bank's terms and conditions that regulate their particular current account. Most people need a current account for day-to-day transactions such as paying bills or (*) _____ money from a cash machine. In many countries, the majority of people have their salary paid directly into the bank and they pay their bills by automated payment. There are usually no bank charges for transactions if your account is in (1) _____. However, if you have an overdraft your account can be described as being 'in the (2) _____' (as opposed to 'in the black') and the bank may charge you for services such as paying bills. As well as offering current account facilities, most banks offer various other services to their customers.

Loans

When bank customers want to (3) _____ out a loan, they need to find a borrowing arrangement that suits both their circumstances and their budget. Loans are usually repaid over a specified period of time, by paying a certain amount each month. Some banks allow a borrower to delay the first repayment for a few months, although after that the loan will have to be paid in equal monthly (4) _____ over the agreed period of time. Any customer who chooses this option involving a 'repayment holiday' at the beginning of the repayment period should be aware that the bank charges (5) _____ on the loan from the day that the bank deposits the money borrowed into the customer's account. If a customer already has a current account with the bank, the application process is easy. He or she can usually apply for the loan online, or call into the local (6) _____ of the bank and speak to one of the staff who works there.

Travel money

When you travel abroad you will usually need to change your money into a different (7) _____. The exception is travellers who are from those European Union countries who are able to use the Euro in several member states. Before choosing a bank or a bureau de change to exchange your money, it is a good idea to check the exchange (8) _____ as it may vary a great deal between different banks and you can lose money if you don't shop around for a good deal.

Internet banking

Internet banking gives you access to your account 24 hours a day. You can use it whenever you want to check your (9) _____, which is the amount of money that you have in your account. You can also use it to make bank (10) _____ online if you need to move money from one account into another. Most customers regard internet banking as being secure and easy to use.

Example (*) withdrawing

(1) _____	(6) _____
(2) _____	(7) _____
(3) _____	(8) _____
(4) _____	(9) _____
(5) _____	(10) _____

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Exercise 2

Read the following extract from an agreement. The missing words are in the list below. For each gap choose the word which best fits into the space from the options provided. Use each option only once. Write your answers in the box below. There is an example at the beginning (*).

FROM THE TERMS AND CONDITIONS OF AN OVERDRAFT AGREEMENT

1 This overdraft will not be (*) _____ by any charge.

2 Charges for using an authorised overdraft:

- The Bank will not charge interest if your overdraft does not (1) _____ £100.
- The Bank will charge 1.26% per month on an overdraft balance above £100. This gives an equivalent annual rate of 16.22%. Interest is (2) _____ daily on the overdraft balance.

3 Charges for going over an agreed limit:

- The Bank will charge you £12 if you become overdrawn without agreeing it with us first or if you go over the limit that you have agreed with us. We will charge you this amount each day your overdraft increases by £10 or more. We will do this up to a (3) _____ of £100 each month.
- The Bank will charge you a higher rate of interest when you become overdrawn without our agreement. We will charge you the Unauthorised Overdraft Rate. This is (4) _____ 2.20% per month.

4 It is a condition of this overdraft that you make regular payments into your account. We may request full or partial repayment of your overdraft at any time. You can cancel this overdraft at any time but if you do so you must return any money you (5) _____ us.

(AA) secured	**(B) currently**	**(D) owe**
(A) calculated	**(C) exceed**	**(E) maximum**

(*) AA	(1)	(2)	(3)	(4)	(5)

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Exercise 3

Read the following sentences that have a preposition missing from them. For each sentence circle the preposition which best fits into the space from the options provided. Put a circle around the correct answer on the answer sheet. There is an example at the beginning (*). Do not mark more than one answer for each sentence.

Example With this bank account you will pay no charges (*) _____ the UK to issue cheques.

1 How much money do you have (1) _____ your bank account at the moment?

2 She has not made a payment on her loan account this month so this morning she received a letter (2) _____ her bank.

3 I have just opened a new savings account (3) _____ the Royal Chatsworth Bank.

4 If you make a call to the bank, all calls are charged (4) _____ local charge rates.

5 If I cannot make the repayments on my loan because I am ill and cannot work, will I be covered (5) _____ my insurance policy?

6 My account went (6) _____ the red by £200 last month.

7 Could you let me know (7) _____ Tuesday if I will be able to borrow that amount as I want to go ahead and rent premises for my new business.

8 If you use internet banking you should make sure that your password isn't known (8) _____ anyone else.

9 I'm afraid that (9) _____ the circumstances your insurance policy does not cover you for the missed payments.

10 Interest accrued (10) _____ her savings at a very high rate.

(*)	**A** on	**B** in	**C** under	**D** of
(1)	**A** at	**B** with	**C** in	**D** on
(2)	**A** from	**B** to	**C** of	**D** in
(3)	**A** of	**B** in	**C** on	**D** with
(4)	**A** at	**B** with	**C** through	**D** on
(5)	**A** for	**B** in	**C** with	**D** by
(6)	**A** in	**B** into	**C** over	**D** on
(7)	**A** for	**B** at	**C** in	**D** by
(8)	**A** to	**B** with	**C** as	**D** at
(9)	**A** on	**B** at	**C** under	**D** for
(10)	**A** with	**B** on	**C** at	**D** to

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Listening

Exercise 4

Listen to the interview between a radio presenter and an actress. Decide if the following statements are true or false.

1 Julie Barrie lives in London.

2 Julie Barrie saved half of the money that she made from her first job and she spent the other half.

3 Julie Barrie had to go into her bank for money because ATMs were not invented in the 1970s.

4 Julie Barrie's rent was about £16 a week when she was a drama student.

5 Julie Barrie's overdraft limit was £11 when she was a drama student.

6 Julie Barrie needed £250 as a deposit to buy her house.

7 Julie Barrie's mortgage was at a fixed-rate of approximatley 5% for the first five years.

8 Julie Barrie says that she owns four houses in total.

9 Julie Barrie says that she has no credit cards at all because the interest rates on them are too high.

10 Julie Barrie says that she doesn't like her son to carry cash in case he is mugged.

True or false?

(1)	(2)	(3)	(4)	(5)

(6)	(7)	(8)	(9)	(10)

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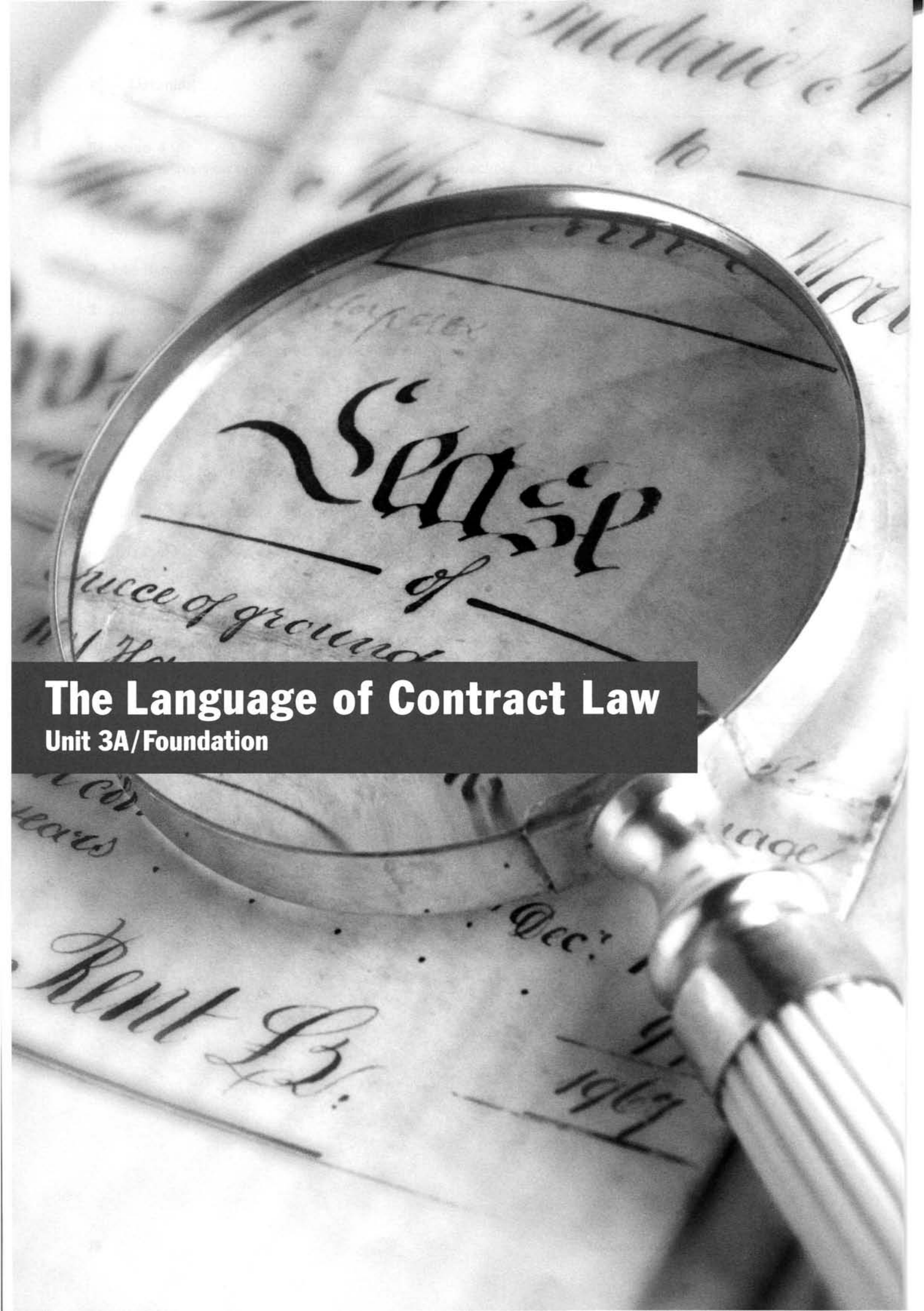

The Language of Contract Law

Unit 3A/Foundation

THE LANGUAGE OF CONTRACT LAW

A CONTRACT CASE

Exercise 1

Diana Williams is a lawyer. Today she has a new client. Diana's notes from the meeting with her new client are below. Look at the headings in the blue box below. Read Diana's notes and give each paragraph the correct heading.

- **General information**
- **What I need to do**
- **Client details**
- **Facts of the case**

New client notes

a _____

Name: Charlotte Hewittson

Address: Chatsworth School of English, Braeburn House, Chatsworth, CH3 2SJ

Telephone: 0771 883567

Appointment: 10 July, 2pm

b _____

Charlotte Hewittson has a language school in Chatsworth. Her school teaches English to foreign students. On the last Thursday of every month Charlotte takes her students for a day in London. They visit attractions like Madam Tussaud's and Buckingham Palace and they eat lunch in Hyde Park. Charlotte uses a local bus company to take her students to London. The name of the bus company is Chatsworth CitiTravel. Charlotte first used this bus company six years ago. She trusts them and has a good working relationship with them. However, Charlotte never signs a contract with them. She always books the bus by phone.

c _____

On 2 June Charlotte telephoned the bus company to book the bus as usual for the last Thursday of the month. Unfortunately it was lunchtime and no one was in the office. Charlotte left a message on the answering machine to make her usual booking. The bus company secretary called Charlotte back, but Charlotte was teaching her class. The secretary left a message for Charlotte. The message was, 'We are very sorry Charlotte, but we can't give you a bus on the last Thursday of this month. We will send one on Friday instead. Call us back immediately if this is not OK. If you don't call us our driver will be there on Friday'.

Charlotte needed a bus for Thursday, not Friday. So, she used another bus company. She forgot to call Chatsworth CitiTravel to say that Friday was no good. The bus arrived on Friday morning. Now Chatsworth CitiTravel wants the cost of hiring the bus. This is £360.

d _____

I need to advise Charlotte about paying CitiTravel the £360 that they are demanding from her. My advice depends on Charlotte's situation with CitiTravel. If she has a contract with them she is obliged to pay. If there is no contract with them then there is no obligation to pay.

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Exercise 2

Read the information in Exercise 1 again and decide if the following statements are true or false.

a	Charlotte takes her students to London every Thursday.	**True**	**False**
b	Charlotte's students are not English.	**True**	**False**
c	Charlotte signed a contract with the bus company six years ago.	**True**	**False**
d	Charlotte agreed to use a CitiTravel bus on Friday instead of Thursday.	**True**	**False**
e	The cost of hiring the CitiTravel bus is £360.	**True**	**False**

Before you look at the next exercise decide if Charlotte has made a contract with Chatsworth CitiTravel.

Yes **No** **Maybe**

Exercise 3

Diana Williams's opinion about Charlotte's legal problem is in the box in Exercise 4. You will need the following words to complete the text. Match each word with the definition provided.

(*) **Offer** means...	...a person who makes an offer. (1)
a **Acceptance** means...	...a decision of a judge in an earlier case that other judges must follow if the circumstances of the situation are the same or similar. (2)
b **Offeror** means...	...a proposal, the terms of which are certain.
c **Precedent** means...	...that you must do something. It is necessary to do it. (3)
d **Case** means...	...a legal agreement made between two or more parties. (4)
e **Contract** means...	...an unconditional agreement to what is proposed by the other party. (5)
f **Obliged** means...	...a set of arguments in a situation that might become legal or is already legal in nature. (6)

Help desk

What do these words mean?

unconditional – absolute, without any doubts or suggestions of change.

no good – an informal way of saying not suitable or not acceptable.

parties – the people who have entered into a contract or the people involved in a dispute.

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Exercise 4

Here is what Diana thinks about Charlotte's legal problem. Complete the text using the highlighted words from Exercise 3.

Diana's opinion

Does Charlotte have a (**a**) _____ with Chatsworth CitiTravel?

In some legal systems around the world the answer is 'Yes' and in some it is 'No'. Many lawyers will say it is difficult to reach a definite conclusion.

According to English law, Charlotte probably does not have a contract with the bus company. Because she has no contract with the bus company she is not (**b**) _____ to pay the £360.

What are my grounds for concluding that Charlotte has probably not made a contract with CitiTravel?

Because there is a (**c**) _____ in English law that says (**d**) _____ of an (**e**) _____ cannot be made by silence. Acceptance must be actively communicated to the (**f**) _____. In this (**g**) _____ Charlotte did not accept the bus company's offer. Therefore there is no contract.

MORE ABOUT PRECEDENT

We can say that Charlotte does not have a contract because there is a precedent case in English law that says that acceptance of an offer cannot be made by silence. To make a contract Charlotte needed to call CitiTravel and accept their offer.

Exercise 1

You are now going to read more about precedent. The most important words are in the key vocabulary. Read the text below. Decide if the statements on the next page are true or false.

Key vocabulary

- **precedent**
- **common law**
- **recorded**
- **binding**
- **courts of first instance**
- **ratio decidendi**
- **obiter dictum**
- **distinguishable**

Precedent comes from what is called the **common law**. The common law is one of the main sources of law in England and the USA. The common law developed after the year 1066, when the whole of England developed the same body of laws instead of each area having its own local laws – that is why it is called 'common'. The common law covers both criminal and civil court decisions.

As judges' decisions were written down, often described as '**recorded**', in law reports that were common to the whole country, the idea of precedent developed. This means that when a judge decides the result of a particular case he or she must pay attention to the principles of law that come from an earlier case dealing with the same or similar points. In this way, a statement of law can become **binding** upon later judges and can become the law for everyone to follow. When does a particular decision, or pronouncement, by a judge become binding upon later judges? There are two important deciding factors:

1. Judges in courts at the lowest level of decision-making, often called **courts of first instance**, do not normally create binding precedents. It is the higher courts that issue binding rulings and the lower courts must follow them.

2. The pronouncement must form what is called the **ratio decidendi** of the case. This is Latin for 'the reasoning behind the decision'. This is the part of

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the judge's words that provides the legal reasoning for his or her decision. Everything else the judge says is called **obiter dictum**. Obiter dictum is something that is not really necessary for the legal basis for the decision. Only the ratio decidendi is binding.

A later judge dealing with a similar case must decide which precedents are binding. He or she may decide that a precedent suggested by a lawyer is either:

- relevant to the case before him or her, *or*
- **distinguishable** from the present case, which means that the case is so different that the precedent does not apply in this particular situation.

Many countries use a codified system. However, many people believe that the common law is more practical than a codified system because it was developed from real life situations that were presented to the courts.

a	Common law and civil law mean exactly the same thing.	**True**	**False**
b	Recorded can mean written as well as recorded on disk.	**True**	**False**
c	All judges can make new precedents.	**True**	**False**
d	Everything a judge says forms part of the precedent.	**True**	**False**
e	Sometimes a judge will say that a precedent suggested by a lawyer is not relevant.	**True**	**False**

Help desk

What do these words mean?

a source of law – a place where law comes from, for example, a civil code.

a body of laws – a collection of laws. All of them together.

a pronouncement – an old-fashioned word meaning a judge's words at the end of a case giving his or her decision.

a principle of law – an accepted idea that forms part of the law.

a factor – something that is important to consider when making a decision.

relevant – of significance or importance to a particular situation.

Exercise 2

Choose one of the words or phrases from the key vocabulary in Exercise 1 to complete these sentences.

a In England and the USA much of the law is based on the decisions made by judges. This source of law is called the _____ law.

b A judge's decision that forms the law for future cases is known as a _____.

c The important part of a judge's pronouncement when he or she gives a decision in a precedent case is not the obiter dictum but the _____.

d Once a precedent is established it forms part of the law and is _____ upon lower courts.

e The lower courts in the English system are called courts of first _____.

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Exercise 3

Diana Williams is sending a short letter to Charlotte Hewittson about her case. The letter is in the wrong order. Put the parts of the letter into the correct order. There is an example at the beginning, which is the start of the letter.

Williams & Co
1 Dublin Square
Chatsworth
CH1 1DX

Mrs C Hewittson
Chatsworth School of English
Braeburn House
Chatsworth
CH3 2SJ

11 July 20XX

(**a**) As I explained to you, the relevant precedent says that acceptance of an offer cannot be made by silence and you have told me that you did not call them. I will write to CitiTravel today on your behalf and make our opinion on this matter clear to them.

(**b**) I enclose my account for your attention and hope that this matter is now at an end. If you have any further questions please do not hesitate to contact me.

(**c**) Diana Williams

(**d**) **Your dispute with Chatsworth CitiTravel**

(**e**) I am pleased to confirm to you the advice that I gave you when you visited my office. In my opinion, you did not form a contract with CitiTravel as you did not accept their offer to provide you with a bus on Friday 28 June.

(**f**) Thank you very much for coming to see me yesterday in connection with the above matter.

(**g**) Dear Ms Hewittson

(**h**) My advice is then to do nothing more about this matter and wait to see if CitiTravel respond to our letter.

(**i**) Yours sincerely

D Williams

(1) g	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Help desk

What do these words mean?

account – when the word is used in this way it means a bill or an invoice that someone must pay.

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THE ELEMENTS OF A CONTRACT

It is a general principle of English and American contract law that all of the necessary elements must be present to make a contract. An element is a fundamental part of something. This is true of all contracts, both written and unwritten.

Exercise 1

Read the story below and decide if you think the two people concerned, Charles and Maria, have a contract. In the space provided, write ***why*** *you think this situation is contractual/non-contractual. Think about the elements of a contract in your country.*

> Maria is Charles's girlfriend. The relationship started eight months ago. Charles asks Maria if she would like to go to Italy with him for a skiing holiday. Maria agrees. Charles pays for the holiday on his credit card. The cost is £2500 in total. However, a week before the holiday Maria meets Will. She calls Charles and explains that she is now Will's girlfriend and she doesn't want the holiday. Charles is very angry. He demands £1250 from Maria and says she has to pay. She says she thinks the holiday was a present from him. Charles says the holiday was not a present because Maria has a great job and makes more money than him.

Do they have a contract? Why/Why not?

My reasons:

We will return to this question later to check your conclusion. First, we need to look at the vocabulary that you need to be able to talk about the elements of a contract according to English and American law.

Exercise 2

The English courts have an objective test to decide if a contract exists in a particular situation or not. The court looks for a list of things that are the necessary elements of a contract. Look at the words in the box and circle those that you think might be one of the elements according to English law. Then look at the explanation on the next page to see if you are correct.

subject	**offer**	**motivation**	**proposal**
object	**topic**	**acceptance**	**value**
consideration	**receipt**	**intention**	**price**

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The elements of an English contract are from the common law. They might be different from the elements of a contract in other countries. The elements of an English contract are:

- offer
- acceptance
- consideration
- intention.

The other words in the blue box are not elements of a contract according to the common law. However, they are all words that lawyers from civil code systems sometimes use. If you use the other words in the box you may have to explain what you mean to a lawyer from the common law system.

Exercise 3

Read the information below about the elements of a contract. Complete the text below by writing the correct element of a contract after its description.

To form a binding contract according to English law, four elements must be present.

- The first of these is where one of the parties makes a proposal to the other party. The proposal is on absolutely certain terms. For example, 'I will sell you my car cleaning business on 1 January for £20,000'. This proposal is called an (**a**) _____.

- In order to make the contract valid, the parties must exchange something. Each of them must give something to the other, such as money, work or goods. In the above example one party exchanges a car cleaning business in return for £20,000. Each gives something to the other. If one party promises the other a gift (in return for nothing) then in a situation like this the parties do not usually have a contract. So, another element of a contract is (**b**) _____.

- The courts look at the relationship between the two parties. The courts decide if the parties really want to make things legally binding in this particular situation or not. If I agree to do some work for my mother or my father did I really mean to make the agreement legal? Did I have (**c**) _____?

- It is absolutely necessary that a person accepting an offer does not change the terms of the original offer. For example, if I say, 'I will buy your car cleaning business. But not for £20,000 as you ask. I will give you £15,000', then there is no binding contract because there was no (**d**) _____.

Exercise 4

Go back to your reasons for deciding whether or not Charles and Maria have a contract. Can you see all four elements? What do you think a judge from your country would say? It is one of those cases where it is difficult to give a definite answer.

My notes:

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THE END OF AN OFFER

Sometimes a contract cannot be made because the offer comes to an end before it can be accepted. In other words, the offer is no longer open to acceptance. Lawyers refer to the people who make and receive the offer as follows:

- The person who makes an offer is called the **offeror**.
- The person who receives the offer is called the **offeree**.

Exercise 1

Jumbled words. In each of the situations described below the letters of one of the words are mixed up. Put the letters in the correct order to spell the words. The first letter of each word is there for you. Then give the name of the offeror and the offeree in each situation.

a David Jackson has a new job. When he starts work the company, DDS Furniture Ltd, offers him shares in the company at a special, cheap price. A year after he starts the job he decides to accept the offer to buy the shares. His employer tells him he cannot accept the offer. This is because the offer has **L**_____ (**ELPDAS**). It means too much time has passed.

The offeror is _____

The offeree is _____

---

b Julie Smith buys a new computer. She advertises her old one for sale for £50. Alex Harrison calls and suggests paying Julie £30. Julie refuses. Alex then suggests £40 but Julie refuses. Julie says the reason is that Alex made a **C**_____ (**TREUNOC-ORFFE**). The legal effect is to cancel the original offer.

The offeror is _____

The offeree is _____

---

c Jamie Hammond decides to sell his car to Ben Wardle. Ben says, 'No thank you'. The offer was **R**_____ (**CJEDETER**). The legal effect is to cancel the offer.

The offeror is _____

The offeree is _____

---

d Mia Thomas decides to sell her house. She offers the house for sale at a price of £190,000. Andrea Stewart decides to buy it. However, before Andrea can accept the offer, Mia changes her mind and decides to keep the house. The offer is **R**_____ (**KVDREEO**) or in other words, Mia withdraws the offer.

The offeror is _____

The offeree is _____

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WHAT IS CONSIDERATION?

Exercise 1

Read the following text. It is about consideration in contract law. Choose the correct word from the text to complete the sentences below.

Offer and acceptance are not enough to make a contract. There also needs to be two other elements. They are:

- intention to create a legal relationship, and
- consideration.

What is consideration? Consideration is what one party promises to give to, or promises to do for, the other party. Both parties need to provide consideration to make a contract valid. There are many precedents in English law where judges decide what is good consideration and what is not.

Consideration is usually one of the following things:

- a promise to do something
- a promise not to do something in the future (sometimes called forbearance)
- goods
- services
- money.

A promise of a gift or of a free service does not usually create a contractual situation according to English law. This is because one of the parties has not provided consideration. To make a contract both parties must give something or do something for the other in a kind of exchange. A lawyer describes this by saying that consideration must be reciprocal. It must travel in both directions. If consideration is a good thing for a party and is positive in nature, we say that he or she has gained a benefit. Receiving a payment of money would be an example of this. However, sometimes the consideration provided is negative in nature. Let's imagine an employee agrees in his or her employment contract not to start a business for two years after the contract terminates. He or she has promised not to do something in the future. We say that this party has suffered a detriment.

I promise to tidy a friend's garden because she is ill. I don't want to be paid. However, I am busy and I don't tidy the garden for her. Is our agreement a contract? No, it isn't. Why not? It is not a contract because one of the parties to the agreement has not provided consideration.

Consideration is a fundamental principle of English contract law.

---

a As well as offer, acceptance and consideration, the parties to a contract need to have _____ to create a legal relationship.

b To make a legally binding contract both parties must _____ consideration.

c To find out what is good consideration for a contract I need to check the relevant _____ to see what judges say about it.

d A promise not to do something in the future can be good consideration for a contract. Lawyers usually call this _____.

e Both parties to the contract must provide consideration, in other words it must be _____.

f If I receive something positive under the contract I gain a _____ .

g If I lose something under the contract I suffer a _____ .

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Exercise 2

Contract wordsearch. Look in the grid below and find the following words. The words can be found in any direction.

acceptance	**offeror**	**source**	**consideration**
detriment	**case**	**binding**	**obiter**
revoke	**precedent**	**ratio**	**benefit**
contract	**intend**	**offer**	**factor**

I	N	T	E	N	D	R	B	F	P	E	A	A	F	L
L	X	P	I	N	T	E	I	P	R	O	T	C	A	F
A	C	C	E	P	T	A	N	C	E	E	K	T	A	A
P	A	F	O	F	E	N	D	R	C	L	V	C	C	X
S	S	F	F	N	R	F	I	E	E	T	B	O	T	T
E	E	C	F	A	T	L	N	C	D	U	E	B	K	R
D	T	O	E	C	W	R	G	Q	E	F	N	I	J	E
L	A	S	R	K	A	C	A	O	N	M	E	T	O	B
H	S	I	O	B	I	T	E	C	T	D	F	E	F	I
O	D	E	T	R	I	M	E	N	T	E	I	R	F	N
R	A	T	C	L	I	R	H	F	A	T	T	A	E	D
D	E	T	R	P	N	B	O	R	V	R	A	T	R	A
S	O	C	O	N	S	I	D	E	R	A	T	I	O	N
F	S	O	U	R	C	E	I	N	T	L	A	S	R	R
F	A	R	A	T	I	O	Z	S	L	A	B	I	T	E

CONTRACT AND STATUTE

Exercise 1

Much modern contract law comes from statute. You are going to read about statute. Read the text and write the highlighted words in the text next to the meanings given on the next page.

The **common law** is one source of contract law. Another is **statute**.

A statute is a law made by **Parliament**. We can say that judges make the common law but Parliament creates statutes.

A statute passes through three stages:

- The House of Commons
  This is the most powerful of Parliament's two chambers. These chambers are usually known as Houses. The House of Commons has 639 members, who are **elected** when the whole country votes in a **general election**. These members of the House are called **MPs**. A statute

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begins in this House. The House of Commons has only 427 seats. When it is full a lot of people have to stand!

- The House of Lords
  This is Parliament's second chamber. Its main function is to check new laws, which were proposed in the House of Commons. The House of Lords has 675 members who come from a variety of backgrounds. This House does not have the power to stop a proposed statute from becoming law, but it can slow it down. Some members of this House are not elected. These members get their seats from the monarch (the King or Queen) on the advice of the Prime Minister.
- The Monarchy
  The monarch has to give permission before a new statute becomes law. This is because the King or Queen is the Head of State. This permission is called giving the 'Royal Assent'. However, the monarch always accepts the advice of his or her government. In fact, the monarch does not even have the full text of the proposed statute, only the title of it. The last monarch to reject a proposed statute was Queen Anne, who died in 1715.

There are three words for the law made by Parliament. They refer to the same thing. They are:

- Statute. This is often called statutory law
- Acts of Parliament
- **Legislation.** This is the collective word for all statutes.

Example: The law that comes from the decisions of judges and is based on precedent. Common law

a The main law-making body in England. _____

b Members of Parliament. _____

c A law made in Parliament. _____

d Chosen by the people to be a political representative. _____

e A word meaning all of the laws made by Parliament. _____

f A system of choosing new Members of Parliament. All of the people have a vote. _____

Exercise 2

Read the text about statute carefully and decide if the following statements are true or false.

a	A statute is the same thing as an Act of Parliament.	**True**	**False**
b	A statute always starts in the House of Lords.	**True**	**False**
c	Members of the House of Commons are elected but some members of the House of Lords are not.	**True**	**False**
d	The King or Queen often stop a new statute if they disagree with it.	**True**	**False**
e	Legislation is another word for a single statute.	**True**	**False**

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Exercise 3

Look at this very short text. It is about a statute. Look at the words that are highlighted in the text. Without using a dictionary decide if each word is a verb or a noun.

The Unfair Contract **Terms** Act 1977 (UCTA) is an example of a statute that deals with contract law. It **covers transactions** between people.

This statute **places** some **restrictions** upon the contract terms people can agree to. One particular part of it deals with the ways in which people that are selling something can limit their **liability** for negligence.

Verb	Noun

Exercise 4

Here are the definitions of the highlighted words in Exercise 3. Put the correct word into each sentence to complete the definition.

a A _____ is a piece of business, such as buying or selling something.

b To _____ something is to deal with, or include something.

c A _____ is a limit that is put on something.

d If you have _____ for something it means that you have legal responsibility for it.

e The _____ of a contract are its contents. It means the conditions and duties that you agree to perform when you enter into the contract.

f To _____ a restriction upon someone is to put limits upon what they are allowed to do.

Exercise 5

Using the words 'term' and 'terms'. These can be confusing words because they can have more than one meaning when lawyers use them.

Read the explanation about the meaning of these words. In the sentences opposite, decide which of the four options you need to complete the sentence. Then identify which meaning of the word is the correct one.

Terms

1 **terms:** All of the duties and conditions contained in a contract.

Example sentence: She explained the terms of the contract to her client.

2 **terms:** Words and expressions.

Example sentence: A lawyer sometimes uses legal terms that his client might not understand.

Term

1 **term:** A single duty or condition contained in a contract. It is sometimes called a provision.

Example sentence: There is a term in this contract that forbids you to sell goods in Australia or New Zealand.

2 **term:** The duration of a contract.

Example sentence: The term of this contract is one year from the date of signing.

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Example: The _term_ of this contract is one year, commencing on the date of signature. (_term 2_)

a Some of the _____ used in this letter are very old-fashioned and lawyers don't really use them any more. (_____)

b For the entire _____ of this contract the Employee shall not disclose any confidential information to any third party. (_____)

c There is usually a _____ in most commercial contracts dealing with the jurisdiction of the contract in case of disputes. (_____)

d When you sign a contract you agree to all of the _____ that it contains. (_____)

Help desk

What do these words mean?

third party – someone who is not one of the two main parties involved in a contract or a particular situation.

jurisdiction – legal power over a geographical area or people.

condition – something that you have to do in order for something else to happen.

entire – complete or whole.

disclose – tell.

READING CONTRACT LAW

Exercise 1

You are now going to read more about contract law. The most important words are in the key vocabulary below. Decide if the statements on the next page are true or false.

Key vocabulary

- **contrary**
- **contract under seal**
- **sum**
- **capacity to contract**
- **party in breach**
- **breach**
- **under duress**
- **enforceable**
- **void**
- **voluntarily**
- **injured party**
- **comply with**
- **donation**
- **consent**
- **deed**
- **discharged**

In general, businesses are free to enter into whatever contracts they agree between themselves. However, business contracts must not be **contrary to** (against) case law or to Acts of Parliament such as the Unfair Contract Terms Act. If the contents of a contract, usually called the terms and conditions, do not **comply with** the law, meaning they don't follow the law correctly, then a judge will probably decide that the contract is **void**. Void means 'empty'. It is not an **enforceable** contract. It is not a contract that a court will recognise as valid.

It is a general rule that both parties to the contract must have **capacity to contract**. This means that when a person signs a contract they must be:

- old enough to **consent** (say yes) to it; and
- not mentally ill; and
- not drunk or using drugs.

It is another general rule that both parties must enter into the contract **voluntarily**. This means that they must have signed it freely and not **under duress** (pressure).

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A contract may be:

- written; or
- oral (spoken); or
- in the form of a **deed.**

A deed is sometimes called a **contract under seal**. It is a special contract that is legal even though one of the parties has not provided consideration. A promise of a gift or **donation** for example, can be a valid contract if the agreement takes the form of a deed. An oral contract is binding according to English law. Even if a contract involves a large **sum** of money, it is still valid if it is not written.

When a contract comes to an end we say that the contract is **discharged**. If the contract is discharged because one of the parties does not fulfil their obligations it is called a **breach**. If one party breaches the contract the **injured party** can sue the **party in breach**. The injured party is the claimant and the party in breach is the defendant.

a	Acts of Parliament concerning contract law are to protect the public and they do not affect businesses at all.	**True**	**False**
b	If a contract is void it will not be enforceable by a court.	**True**	**False**
c	If I sign a contract after drinking a whole bottle of wine and three beers the contract might not be valid.	**True**	**False**
d	In very special circumstances it is possible to have a contract where one of the parties does not provide consideration.	**True**	**False**
e	The injured party and the party in breach are the same person.	**True**	**False**

Exercise 2

Choose a word or phrase from the key vocabulary in Exercise 1 to complete the sentences below.

a You are only 16 years old so you do not have _____ to contract.

b A contract that is valid even though one of the parties has not provided consideration usually takes the form of a contract under _____.

c We made an oral contract and even though it involves a very large _____ of money it does not need to be in writing to be valid.

d There are various ways in which a contract can be _____, including performance of all duties or breach.

e If a contract is binding then it is _____ by a court.

f You did not fulfil your obligations under this contract and as the _____ I have the right to sue you for breach.

g Did you sign the contract _____ or was it signed under duress?

h One of the terms of this contract is _____ to the Sale of Goods Act and the term is therefore not valid.

i If I promise to make a _____ to a person or an organisation it is a legally binding contract if the agreement takes the form of a deed.

j Any private agreement must _____ with all relevant law, including Acts of Parliament.

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GOING TO COURT

The following exercises are about a dispute. This dispute is about a breach of contract.

Exercise 1

Read the facts and decide if the statements that follow are true or false.

John Oliver is the owner of a car business called Oliver's Auto. John Oliver sells second-hand (used) cars in Chatsworth. Many of the cars that John Oliver sells previously belonged to a taxi company. Two months ago, John Oliver sold a car to a woman named Susan Hicks. Susan Hicks paid for the car by cheque. The cost was £1000. The car was not a good one. It stopped working twice in the first week that Susan bought it. Susan was angry and went to John Oliver's office. Susan asked John Oliver to give her a different car. He refused. Susan telephoned her bank and cancelled the cheque. John Oliver did not receive any money. The car is at Susan's house. The car will not start. Susan telephoned John Oliver last week and said he can collect his broken car any time he wants to. John Oliver refused. He decided to sue Susan Hicks for breach of contract on the grounds that she did not pay him.

Yesterday Susan received a claim from Chatsworth County Court, which is the local civil court. John Oliver is claiming £1000 from her for the car, plus a court fee of £60. His total claim is £1060.

a	John Oliver owns a taxi business in Chatsworth.	**True**	**False**
b	Susan Hicks did not pay in cash for the car she bought from John Oliver.	**True**	**False**
c	Susan Hicks telephoned John Oliver to ask him for a different car.	**True**	**False**
d	John Oliver collected the car from Susan's house last week.	**True**	**False**
e	John Oliver is not claiming any interest on the £1000 he says Susan owes to him.	**True**	**False**

Exercise 2

Susan now receives a claim from Chatsworth County Court. There are some words in the claim form that she does not understand. Her questions are below. Match her questions with the correct answer.

a What is a **claimant**?	It means to start an action against someone in the civil court. (1)
b What is a **defendant**?	It is something that you suffer as a direct result of the breach of contract. (2)
c What does **sue** mean?	It is something that you suffer as an indirect result of the breach of contract. (3)
d What does **defective** mean?	It is the person who starts the legal action. (4)
e What is **direct** loss?	It is the person who the claimant is making a claim against. (5)
f What is **consequential** loss?	It means faulty – not working correctly. (6)

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Exercise 3

Use the highlighted words from Exercise 2 to complete these sentences.

a I must return the goods that you delivered to my shop yesterday as they are all _____ and I cannot sell things that do not work properly.

b Mr Wilkes breached the contract because he delivered the goods two weeks late. As an immediate result of this I suffered a _____ loss of £2000 because I could not sell the goods to the buyer who was waiting for them.

c You must pay what you owe me at once or I will _____ you in the County Court.

d When the claim form was served upon the _____ he decided to pay the money that he owed to the claimant.

e The loss that you suffered as a breach of the contract was not a direct result of the breach. A court will say that this is _____ loss.

f Several people owe money to my business and as a result I am the _____ in three different cases in the County Court.

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UNIT 3A VOCABULARY CHECK

These are the important words that you have studied in Unit 3A. You should make sure that you know these words before you go on to Unit 3B.

acceptance
Act of Parliament

benefit
binding
body of laws
breach

capacity
case
claimant
common law
comply
condition
consent
consequential loss
consideration
contract
contract under seal
contrary
courts of first instance
cover

deed
defective
defendant
detriment
direct loss
discharged
disclose
dispute
distinguishable
donation
duress
duty

elected
enforceable
entire

factor
forbid

general election

House of Commons
House of Lords

injured party
intention
issue

jurisdiction

legislation
liability

Member of Parliament (MP)
monarchy

obiter dictum
obliged
offer
offeree
offeror

parties
party in breach
place
precedent
principle of law
pronouncement
propose

ratio decidendi
reciprocal
recorded
relevant
restrictions
revoke

senior court
source of law
statute
sue
sum

term
terms
third party
transaction

unconditionally

valid
void
voluntarily

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TOLES FOUNDATION EXAM PRACTICE

Exercise 1

Look at the groups of words below. In each group, three of the words belong to the same subject area but there is one word that does not belong. Put a circle around the word that is the odd one out. Do not circle more than one answer for each sentence. There is an example at the beginning (*).

(*)	**A** offer	**B** acceptance	**C** binding	**D** consideration
(1)	**A** common law	**B** precedent	**C** ratio decidendi	**D** statute
(2)	**A** revoked	**B** rejected	**C** factor	**D** lapsed
(3)	**A** MP	**B** obiter dictum	**C** election	**D** Parliament
(4)	**A** donation	**B** deed	**C** contract under seal	**D** duress
(5)	**A** sue	**B** claimant	**C** defendant	**D** legislation

---

Exercise 2

Read the following pairs of sentences. For each pair of sentences there are two possibilities, A or B. Decide which sentence uses the correct preposition. Write your answers in the box below. There is an example at the beginning (*).

Example

(*) (A) Contracts must not be contrary to Acts of Parliament.

(B) Contracts must not be contrary at Acts of Parliament.

1 (A) A precedent is binding upon later cases that are the same or similar in nature.

(B) A precedent is binding to later cases that are the same or similar in nature.

2 (A) The lowest courts are called courts for first instance.

(B) The lowest courts are called courts of first instance.

3 (A) The company offered David some shares on a special price.

(B) The company offered David some shares at a special price.

4 (A) Forbearance is a promise not to do something in the future.

(B) Forbearance is a promise not to do something at the future.

5 (A) The contract is not valid because Mr Jackson signed it against duress.

(B) The contract is not valid because Mr Jackson signed it under duress.

(*) A	(1)	(2)	(3)	(4)	(5)

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Exercise 3

Look at this list of words. They are all nouns. Put the correct word into the following sentences. Write your answers in the boxes numbered 1 – 10 below. There is an example at the beginning (*).

(AA) loss	**(C) sum**	**(F) term**	**(I) liability**
(A) capacity	**(D) detriment**	**(G) consent**	**(J) dispute**
(B) donation	**(E) factor**	**(H) offer**	

Example

(*) A direct (*) _____ is something that the injured party suffers as a direct result of a breach of contract.

1 The boy is only 14 years old so according to English law he does not have (1) _____ to contract.

2 When the parties to a contract exchange consideration they must gain a benefit or suffer a (2) _____.

3 The (3) _____ of Peter's employment contract is six months.

4 A person's age is one important (4) _____ that decides whether or not a person has capacity to contract.

5 In the UK the common law says that acceptance of an (5) _____ cannot be made by silence.

6 In England a promise of making a (6) _____ or giving someone a gift is not usually an enforceable promise because one of the parties has not provided consideration.

7 In some countries it is possible for one party to a contract to limit his or her (7) _____ for negligence under that contract.

8 To give your (8) _____ to something means to give your permission for something to happen.

9 There is a (9) _____ between Mr Greene and Mr Cox. Mr Greene issued a claim last week.

10 My client claims the (10) _____ of £5000 in damages.

(*) AA	(1)	(2)	(3)	(4)	(5)
	(6)	(7)	(8)	(9)	(10)

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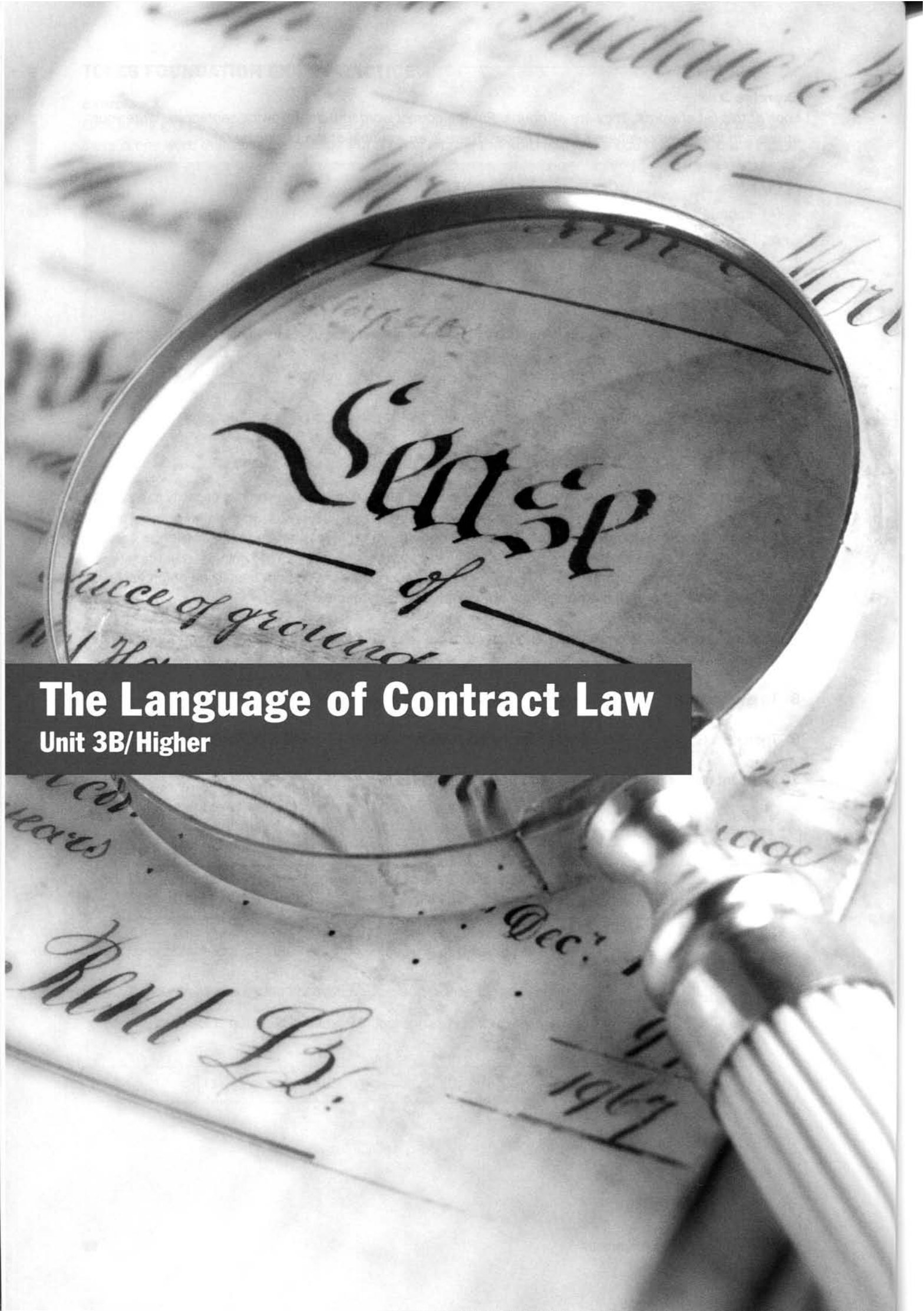

The Language of Contract Law

Unit 3B/Higher

THE LANGUAGE OF CONTRACT LAW

WHERE DOES CONTRACT LAW COME FROM?

Exercise 1

Jack Winter and Shelley Hirst are first-year law students at the University of Chatsworth. Their studies will begin with contract law. The head of the law faculty has asked first-year students to read a book called 'An Introduction to English Contract Law' before they come to their first lecture. The first section of the book that Jack and Shelley have to read is about the sources of English law. This page is on the subject of statute. Fill the gaps in the text with a word or phrase from the box below.

amendments	**drafted**	**into force**	**rejects**	**administrative**
MP	**formality**	**legislation**	**approves**	**elected**

An Introduction to English Contract Law

Chapter 1: Sources of English law

In England there is no civil code. English contract law is therefore not codified. Instead we derive our law from two main sources, which are statute (law made by Parliament) and case law (law made by judges).

Statute

A statute is also called an Act of Parliament. In England, statutes have been the most common source of new contract law since the 17th century. A new statute passes through three stages:

Stage 1: A proposal is made for a new law. A proposal can come from either a government department or an individual (a) _____. This stands for 'Member of Parliament'. If the proposal comes from a government department, then it will usually be (b) _____ by a lawyer in the Civil Service. The Civil Service is the organisation which manages the government's (c) _____ affairs. This proposal for a new Act of Parliament has to be drafted, sometimes called 'drawn up', so that it accurately states the government's intentions and it must be as unambiguous as possible in the language that it uses. Instructions as to what is to be included in the proposal are given to the Civil Service by the government department responsible for it. When the proposal is drafted and published, it is then referred to as 'a Bill'. A private member's Bill is a Bill put forward for consideration by an individual MP. Relatively few private members' Bills become law as compared to those introduced by the government. A Bill is debated in the House of Commons. If the House of Commons (d) _____ a Bill, which it does by taking a vote, then it is passed on to the next stage.

Stage 2: The House of Lords now debate the Bill. The members of the House of Lords can suggest (e) _____ to the Bill, and if they do so, it will go back to the Commons for its consideration of the proposed changes. The power of the House of Lords is limited and a Bill can become law even if the House of Lords (f) _____ it. This is because the role of the House of Lords is to advise and to make suggestions about the law, rather than to formulate it. The process reflects the fact that the House of Commons is a democratically (g) _____ body and the House of Lords is not. When a Bill has passed through the House of Lords it goes on to the final stage.

Stage 3: The monarch (the King or the Queen) gives the royal approval to the Bill. This is called the Royal Assent. This is actually only a (h) _____, as the monarch does not even see the full text of the Bill. Once the Royal Assent is given to a Bill, the new Act of Parliament will come (i) _____ on the date stated in the Act itself, or at midnight on the day that the Royal Assent is received. All of the statutes created by Parliament are known collectively as (j) _____.

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A note about the USA

The process is very similar in the United States. In the USA a new Bill has to be passed by Congress. Congress is constituted of two chambers. These are the House of Representatives and the Senate. Both chambers must approve the Bill. It then needs the signature of the President to become law.

Exercise 2

The second page of the book that Jack and Shelley have to read contains information on the subject of case law. Fill the gaps in the text with a word from the box below.

binding	**judgment**	**distinguish**	**precedent**
judge	**instance**	**guidance**	**common**

Case law

Case law comes from judges. It is also known by two other names. These are:

- The (a) _____ law, and
- (b) _____-made law.

If a judge makes a decision on a point of law that has never been considered in court before, the judge's decision can become a statement of law. In the English legal system this statement forms the law for the future. It is called a (c) _____.

An important principle of the system of precedent is that the legal reasons for past decisions must be clear. For this reason, a (d) _____ given, or 'handed down', at the end of a case includes the judge's reasoning in giving his or her decision. In other words, as well as giving a summary of the facts of the case, a judge will also explain the principle of law he or she used in coming to the decision. These reasons for deciding the case are known as the 'ratio decidendi' and this is what creates the precedent for future judges to follow. The rest of what the judge says is known as the 'obiter dicta' and judges in future cases do not have to follow it. It can be problematic for lawyers to separate the ratio decidendi from the obiter dicta because the judgment does not contain any (e) _____ as to which is which.

There are two important factors in deciding whether a judge's decision becomes (f) _____. upon future cases, meaning that there is an obligation to follow it:

- The decision that forms the precedent must have come from a court senior to the court hearing the later case. Judges at the lower levels of decision-making, often called courts of first (g) _____, do not generally issue binding precedents.
- The facts of the later case must be similar enough to the facts of the precedent case. A judge can decide that the material facts of the case before him or her are sufficiently different to allow him or her to (h) _____ between this later case and the precedent.

It is also possible for a court in a later case to decide that the precedent created by an earlier case should no longer be the controlling law and a new precedent is set. This is called overruling. However, the later court must be of a higher level than the original court. The House of Lords, which is the highest court in the UK system, can overrule its own earlier decisions. After the House of Lords, decisions can be overruled by the European courts.

Case law and statute are where most English law and certainly most English contract law come from.

To find out more or to read some cases you can visit the law reports website at **www.lawreports.co.uk**

To find out more about statute or to read some modern statutes from the UK you can visit the website of the Office of Public Sector Information (OPSI) at **www.opsi.gov.uk**

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Collocation bank

- a **source** of law
- to **draft** a Bill
- to **draw up** a Bill
- to **debate** a Bill
- to **suggest** an amendment
- to **make** a decision
- to **form** a new law
- to **hand down** a judgment
- to **issue** a new precedent
- to **decide** a case
- to **make** a proposal/suggestion

Preposition bank

- a source **of** law
  'Legislation is the UK's most important source **of** law.'
- to be drafted **by** a lawyer
  'This Bill was drafted **by** a lawyer in the Civil Service.'
- to put an idea forward **for** consideration
  'This idea was put forward **for** consideration by the Department of Health.'
- to suggest an amendment **to** something
  'The House of Lords is suggesting two significant amendments **to** this Bill.'
- to come **into** force
  'The new Act of Parliament will come **into** force at midnight tonight.'
- a precedent is binding **on/upon** lower courts
  'A precedent from 1908 is binding **upon** the court in this type of situation.'
- to be made **by** someone or something
  'This decision was made **by** a judge in 1985.'
- to pass **through** a stage (that is one of several stages)
  'The proposal for a new Education Act is still passing **through** the early stages.'

Exercise 3

Here is a short text about statute. Complete the gaps in the text with the correct preposition from the box below.

for	**through**	**into**	**to**
on	**of**	**as**	**from**

The UK does not have a civil code. Its laws therefore come (**a**) _____ alternative sources. Until the 17th century, the common law was the most important source (**b**) _____ law. After that, Acts of Parliament, otherwise known (**c**) _____ statutes, became the primary source of law.

A Bill is the name given to a proposal for a new statute. A Bill is put forward (**d**) _____ Parliament's consideration by an MP or by a government department. A Bill has to pass (**e**) _____ several stages before it becomes law. The first of these stages is usually the House of Commons. A vote is taken (**f**) _____ the Bill and if it is approved it will pass to the House of Lords. The House of Lords can suggest amendments (**g**) _____ the Bill but it cannot prevent the Bill from becoming law. The final stage is the Royal Assent. After this, the new Act of Parliament can come (**h**) _____ force.

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READING A STATUTE

You are now going to read part of a statute that deals with contract law. The complete statute has ten sections and is six pages long. This is part of Section 1, which forms the first page of the statute. It deals with the rights of people who are not one of the parties to a contract but who may have rights under that contract in certain circumstances.

ELIZABETH II c. 31

Contracts (Rights of Third Parties) Act 1999

1999 CHAPTER 31

An Act to make provision for the enforcement of contractual terms by third parties. [11th November 1999]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Right of third party to enforce contractual term.

1.—(1) Subject to the provisions of this Act, a person who is not a party to a contract (a "third party") may in his own right enforce a term of the contract if—

(a) the contract expressly provides that he may, or

(b) subject to subsection (2), the term purports to confer a benefit on him.

(2) Subsection (1)(b) does not apply if on a proper construction of the contract it appears that the parties did not intend the term to be enforceable by the third party.

(3) The third party must be expressly identified in the contract by name, as a member of a class or as answering a particular description but need not be in existence when the contract is entered into.

(4) This section does not confer a right on a third party to enforce a term of a contract otherwise than subject to and in accordance with any other relevant terms of the contract.

(5) For the purpose of exercising his right to enforce a term of the contract, there shall be available to the third party any remedy that would have been available to him in an action for breach of contract if he had been a party to the contract (and the rules relating to damages, injunctions, specific performance and other relief shall apply accordingly).

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Exercise 1

Read the page from the statute, Contracts (Rights of Third Parties) Act 1999, on the previous page. Some of the words and expressions used in the statute are explained below to help you.

a contract provision is a term contained in a contract.

a third party to a contract is a person who has not signed the contract but may be affected by it.

to enforce a term is to make sure that the term is obeyed.

to expressly confer a right or a benefit upon someone is to write in a contract that a person definitely has that right or benefit.

the construction of a contract is the interpretation of it. The verb is to construe, meaning to interpret.

an enforceable term or an enforceable contract is a term or a contract that a court will recognise as valid and will give a solution, known as a remedy, to the injured party if the term or contract is breached.

to be a member of a class is to be a member of an identifiable group of people.

a remedy for breach of contract is a solution provided to an injured party in cases of breach. It is sometimes called 'relief'. The remedy is usually damages but there are other solutions, or relief, available at the discretion of the court.

an injunction is a court order that orders the party in breach to stop behaving in a way that breaches the contract. It is generally an order to stop doing something.

specific performance is a order from the court that obliges the party in breach to do what they promised to do under the terms of the contract.

Match each explanation below with the correct subsection of the statute. The statute has five subsections, which are clearly numbered 1–5.

a This subsection says that a third party may not enforce a right if a correct interpretation of the contract concludes that the parties did not actually intend that the third party should be able to enforce that right.

This describes subsection _____

b This subsection says that the third party who wishes to enforce a right must be clearly named in the contract or be a member of a group of people that is clearly named in the contract. This section also says that the third party does not need to exist at the time the contract is made. This gives rights to third parties such as unborn children or future husbands or wives of the contracting parties.

This describes subsection _____

c This subsection says that a third party can enforce a right if the contract clearly states that he or she may do so. This section also says that if a contract term clearly gives a benefit to a third party, then he or she can enforce that term.

This describes subsection _____

d This subsection says that if a term is enforced the court can give the third party any of the usual remedies available to any person who brings a claim for breach of contract. This section also says that the normal rules of law that apply to remedies will apply in the normal way to third party claims.

This describes subsection _____

e This subsection says that if a third party wishes to enforce a contract term he or she can only do so subject to any other term in the contract that is relevant. This means that the parties to the contract can limit or place conditions on the third party's right. There may be another term for example, that says that any dispute must be resolved by mediation. The third party would have to comply with this term when enforcing his or her right.

This describes subsection _____

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You are now going to read two short extracts from another statute. They are from The Unfair Contract Terms Act (UCTA) 1977. In this statute, Parliament states what is acceptable to include in a contract and what is not acceptable. This part of the contract deals with the situation where one of the parties tries to limit his or her liability for a breach of duty.

Exercise 2

Here is a summary of a short extract from UCTA, followed by the extract itself. The summary says the same thing as the statute, but it uses less complicated language. Read the summary to help you understand the meaning of the extract from the statute, and then complete the extract by choosing a phrase from the blue box below.

Summary of paragraph 16 (subsection 1) of UCTA

This subsection says that if, in a contract, one of the parties attempts to prevent or limit his or her liability for breach of duty of care in situations connected with doing business or using a building for business purposes, then:

- the term will always be void if one of the parties tries to prevent or limit his or her liability for death or injury of the other party; and
- in any situation except death or injury, the term will be void if it was unfair or unreasonable to allow it in the contract.

Extract from UCTA

16.1 Where a term of a contract (**a**) _____ or restrict liability for breach of duty (**b**) _____ any business or from the (**c**) _____ used for business purposes of the occupier, that term:

16.1.1 shall be (**d**) _____ where such exclusion or restriction is in respect of death or personal injury;

16.1.2 shall, in any other case, (**e**) _____ if it was not fair and reasonable to (**f**) _____ in the contract.

- **void in any case**
- **purports to exclude**
- **occupation of any premises**
- **have no effect**
- **arising in the course of**
- **incorporate the term**

Exercise 3

On the next page is another extract from the same statute, The Unfair Contract Terms Act. Below, you can see a summary of this extract. Choose a preposition from the blue box and put it in the correct gap in the extract.

Summary of paragraph 16 (subsection 3) of UCTA

If according to subsection 1 (the part of this statute that you have already read), a term of a contract is void, then it is not important whether the person who signed the contract knew about that term. Knowing about a term, or even agreeing to that term does not necessarily mean that the person who signed the contract agreed to take any risk.

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Extract from UCTA

16.3 Where (**a**) _____ subsection 1 (**b**) _____, a term of a contract is void and has no effect, the fact that a person agreed (**c**) _____, or was aware (**d**) _____, the term shall not (**e**) _____ itself be sufficient evidence that he knowingly and voluntarily assumed any risk.

- **of**
- **to**
- **above**
- **under**
- **of**

THE ELEMENTS OF A CONTRACT

Exercise 1

Jack Winter went to his first lecture on contract law at the University of Chatsworth this morning. He learned something about how a contract is formed. Look at Jack's lecture notes below and give each paragraph a heading from the box.

- **Intention to create a legal relationship**
- **Consideration**
- **Offer**
- **Acceptance**

Lecture notes on contract

There are basic elements to every contract. In English law we usually need four essential things (elements) to make a legal contract. **In each country around the world the list of elements needed to make a contract will be different**. In English law there are four elements. If all four elements are present, a contract is formed. If one or more of them is missing then there is no valid contract.

The four elements of a contract

a _____

Generally in English law, there can be no contract unless this exists. It is the name given to what the parties exchange under the contract. It is usually money, goods or services.

b _____

It is something that a party says or writes to another person. It is a statement that suggests that they make a contract on very certain terms. The person who makes this statement wants it to be legally binding when the other party agrees to it.

c _____

The courts judge this objectively. The English case of *Smith v Hughes (1871)* tells us that the important thing is not a party's *real* purpose or aim but *how a reasonable person would look at the situation*. The precedent cases tell us that parties who are in business are usually considered to have this but that parties who make an agreement in a domestic or social situation usually do not.

d _____

It can be defined as, 'a final and clear agreement to terms that have been offered'.

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READING A CONTRACT CASE

Jack and Shelley are learning about case law. Their textbook gives them an example of an important case in English contract law. It is a case on intention, one of the four elements of a contract. It is a precedent case from the year 1919, concerning whether or not a husband and wife can form an oral contract. The claimant is referred to as 'the plaintiff' because the case is an old one. The extract is an example of the ratio of a common law contract case. The ratio is the legal reasoning that forms the law for the future. The first part of the text below is explanatory notes. The case begins with the words of the judge, Lord Justice Atkin.

Exercise 1

Read this extract from the case very carefully and answer the questions that follow using a full sentence.

BALFOUR V BALFOUR

Court of Appeal (1919)

(1) *The defendant was a civil servant based in Ceylon. In November 1915 he came to England with the plaintiff, his wife. They stayed in England until August 1916, when the husband's holiday period ended and he returned to Ceylon. The plaintiff, on her doctor's advice, stayed in England. The husband, before leaving, promised to give the plaintiff £30 a month until she returned to Ceylon. Later the husband wrote saying that it would be better if they remained apart. The plaintiff sued on the promise to pay her £30 a month.*

(2) *Sarjant J gave judgment for the plaintiff, holding that the husband was under an obligation to support his wife* ***and the parties had legally contracted*** *that the extent of the obligation should be £30 a month.*

The husband appealed.

(3) ATKIN LJ ..... it is necessary to remember that there are agreements between parties, which do not result in contracts within the meaning of that term in our law. The ordinary example is where two parties agree to take a walk together, or where there is an offer or acceptance of hospitality. Nobody would suggest in ordinary circumstances that those agreements result in what we know as a contract, and one of the most usual forms of agreement, which does *not* constitute a contract appears to me to be the arrangements which are made between husband and wife.

(4) To my mind, those agreements, or many of them, do not result in contracts at all, even though they may be what as between other parties would constitute consideration for the agreement. Nevertheless, they are not contracts, and they are not contracts because the parties did not intend that they should be attended by legal consequences. To my mind it would be of the worst possible example to hold that agreements such as this resulted in legal obligations, which could be enforced in the courts.

(5) The common law does not regulate the form of agreements between spouses. Their promises are not sealed with seals and sealing wax. Their consideration is really that natural love and affection which counts for so little in these cold courts.

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a In which court was this case heard?

_____

b What was Mr Balfour's occupation at the time of the case?

_____

c Why did the claimant not return to Ceylon with her husband?

_____

d What did the judge in the court of first instance decide?

_____

e What was the name of the judge in the Court of Appeal?

_____

Exercise 2

In each paragraph of the case find a word that matches the definitions provided for you.

Paragraph (1)

a A word meaning started legal action.

The word is _____

Paragraph (2)

b A word meaning the amount of something.

The word is _____

Paragraph (3)

c A more formal word that means 'word'.

The word is _____

Paragraph (4)

d A word meaning to decide in a legal way.

The word is _____

Paragraph (5)

e An old-fashioned word, meaning husbands or wives.

The word is _____

Exercise 3

Say whether the following statements about the case are true or false.

a	The judge says that it is possible to have agreements that are not contracts.	**True**	**False**
b	The judge says that accepting an offer to have a meal with someone, for example, is usually a contract.	**True**	**False**
c	The judge says that what is consideration between other parties might not be consideration between spouses.	**True**	**False**
d	The judge says that there is generally no contract when a husband and wife make an agreement because they don't mean it to be a legal agreement.	**True**	**False**

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Collocation bank

- to **give** judgment for the claimant/defendant
- the **extent** of an obligation
- to **constitute** consideration

Preposition bank

- to do something **on** someone's advice
  '**On** my solicitor's advice I decided not to sue.'
- to continue to do something **until** a certain date
  'Your husband will be obliged to continue to support your children **until** they have all finished their education.'
- to sue **on** a promise
  'She sued him **on** his promise to deliver the goods on time.'
- to give judgment **for** the claimant/defendant
  'I'm sorry but the judge gave judgment **for** the other side.'
- to be **under** a legal obligation
  'You are **under** a legal obligation to carry out your obligations.'
- an agreement **between** two parties
  'There was a clear agreement **between** us that you would provide half of the finance for this project.'

OFFER AND ACCEPTANCE

Jack and Shelley are doing their homework. The subject is offer and acceptance in contract law. Offer and acceptance are two of the essential elements of a contract. Jack and Shelley have decided to do half of the homework each.

Exercise 1

Look at Shelley's homework. It is about the ways in which an offer can come to an end before acceptance can take place. Match the words or phrases in the list with the statements that follow.

How can an offer come to an end?

Susan Clarke offers to sell Holly Quinn two tickets to a music festival. The price is £100 for each ticket. There are five ways in which this offer can come to an end. These are:

- revocation
- rejection
- counter-offer
- lapse of time
- death of the offeror or offeree

a 'I'll give you £85 instead of £100 for each ticket.'

The word/phrase is _____

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b 'You know those tickets you offered to sell to me four months ago? I've decided to take them.'

The word/phrase is _____

c 'I've changed my mind. The offer is no longer open. I've decided to go to the festival myself.'

The word/phrase is _____

d 'I know Susan offered to sell some tickets to you but I'm afraid she has passed away.'

The word/phrase is _____

e 'No thank you. The price is much too high. Forget it.'

The word/phrase is _____

In all of these situations no contract can be formed because the offer has come to an end and therefore it cannot be accepted. This means that two of the elements that are essential to the formation of a contract are missing.

Exercise 2

Look at Jack's homework. It is about how acceptance of an offer must be communicated. Match the statements of law in this list with the situations below.

How must acceptance of an offer be communicated?

Holly Quinn agrees to buy two tickets to a music festival from Susan Clarke. To make her acceptance of the offer legally binding, how must the offer be accepted?

1 The acceptance must be made to the offeror and not to anyone else unless the offeror has authorised it.

2 The acceptance must be communicated. Acceptance cannot be by silence.

3 The acceptance must be actually heard or received in writing to be effective.

4 If the offer specifies a method of acceptance you must accept it using a method that is no less effective than the method specified.

5 A request for more information is not the same as a counter-offer and will not have the effect of rejecting the original offer.

If any of these situations arise then there has been no acceptance and therefore there is no contract between the parties.

a 'My offer clearly said that acceptance must be by sms text message or email. I did not receive your letter of acceptance by post until after I'd sold the goods to someone else.'

The relevant statement of law is _____

b 'You told my brother that you wanted to buy the tickets but you didn't tell me. I'm afraid he was not in a position to accept this.'

The relevant statement of law is _____

c 'You say that you accepted my offer by email. It never arrived.'

The relevant statement of law is _____

continued

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d 'In answer to your question, the tickets offered for sale are for the lower stand on the right-hand side of the stadium.'

The relevant statement of law is _____

e 'If you do not hear from me by five o'clock tomorrow please assume that I want to go ahead and buy the tickets.'

The relevant statement of law is _____

CONSIDERATION

Why is it important to understand consideration? It is important because consideration is not just an academic part of law. The word 'consideration' will appear in contracts that you will have to understand or translate. Look for example, at this clause from a contract between a writer and a film company. The company is buying the rights to make the writer's book into a film.

> **In consideration of** the rights granted under this Agreement the Media Company shall pay to the Author the Licence Fee as follows:
>
> **1.1** £25,000 upon signature of this Agreement
>
> **1.2** £25,000 upon the first DVD release of the film to the public in the UK

This is a good example of how the word consideration is used in contracts.

Exercise 1

As part of her homework, Shelley must write a short essay about consideration in contract law. Complete her essay by putting a word from the box into the gaps.

contrary	**consent**	**terms**	**detriment**	**unqualified**
suffer	**profit**	**reason**	**reciprocal**	**donations**

The final element of a contract is consideration. An English case from 1875, *Currie v Misa*, gave a definition of consideration which is still used today in the contract law of England, the USA and Canada. The judge in that case defined consideration as:

> 'some right, interest, (**a**) _____ or benefit accruing to the one party or some forbearance, (**b**) _____, loss or responsibility given, suffered or undertaken by the other.'

In other words, the parties must gain some benefit from what is exchanged or (**c**) _____ some loss. Consideration is usually goods, money, work or services but it can be other things. In a very simple example, if I sell my gardening business to you for £50,000, my consideration is the business and your consideration is the money.

Motive is not the same as consideration. Your motive for contracting is your personal (**d**) _____ for contracting. It may not coincide with the consideration you are giving, or receiving, as part of the contract.

Under contract law, there is no contract if there is no consideration. It is one of the four necessary

continued

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elements of a contract. The consideration must be (**e**) _____, with both parties providing consideration. The consideration cannot be an act or a thing which is illegal, immoral or (**f**) _____ to public policy. If a certain act is punishable by some law, then it is described as illegal. An example would be a contract to employ an (**g**) _____ pilot to fly a plane.

There is one type of contract that is an exception to the requirement of consideration and that is a deed, which is also sometimes known as a contract under seal. Many years ago, people entering into a contract would put hot wax on the bottom of the paper and press a family ring into it. This seal was a sign of (**h**) _____ to the (**i**) _____ of the contract. In modern times, deeds are used mostly in contracts that involve land. If a contract is a deed, then no consideration is required. This means that if, for example, (**j**) _____ to charity are made under seal, they are valid contracts, even though there is no valid consideration.

Exercise 2

The clause below is from a contract. It deals with consideration. Complete the contract clause by putting the words from the blue box below into the correct gap.

In (**a**) _____ of all of the Services (**b**) _____ by ALT Services Ltd the Company shall pay the (**c**) _____ of £10,000 subject to the (**d**) _____ of the Services and satisfactory completion of work.

- **provided**
- **consideration**
- **provision**
- **sum**

Collocation bank

- to **do** your homework
- to **revoke** an offer
- to **reject** an offer
- to **make** a counter-offer
- to **gain** a benefit
- to **suffer** a loss
- to be **contrary** to public policy or to the law in general

Preposition bank

- to buy tickets **to/for** an event
  'We want to look after our new client very well. Let's get him some tickets **to** the opera.'
- to accept something **by** post/email
  'I sent the cheque **by** post.'
- to put something **in** writing
  'If you have evidence **in** writing it will help us to persuade the judge.'
- a case/new law **from** a particular year
  'In defence of my client I cited a case **from** 1995.'
- to do something **by** a particular time in the future
  'We need to have this document ready **by** five o'clock.'
- to enter **into** a contract or agreement
  'You should not have entered **into** this loan agreement unless you were sure you could make the repayments.'
- to make a donation **to** charity
  'She made a donation **to** a charity for homeless people when she won the lottery.'

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LISTENING

Exercise 1

Today Jack and Shelley are going to a contract law lecture. Listen to the lecture and answer these questions.

a Do contracts involving large amounts of money need to be in writing in order to be valid?

_____

b In which American state was Pennzoil based?

_____

c In the example case of Pennzoil buying Getty Oil there was no written contract. How did they agree the deal?

_____

d A few weeks after Getty Oil had agreed to sell to Pennzoil, another company announced that it had bought Getty Oil. What was the name of the other company?

_____

e How much money was Pennzoil awarded by the court in damages?

_____

f What type of contract does the lecturer say that her students will most often encounter in their careers as lawyers?

_____

g What used to be necessary in order to make a deed valid?

_____

h What type of contract does the lecturer say must take the form of a deed?

_____

i Which does the lecturer say is more common, bilateral or unilateral contracts?

_____

j Is a reward contract bilateral or unilateral?

_____

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CONTRACT LAW IN PRACTICE

Exercise 1

Look at this letter taken from a newspaper. The letter is from the newspaper's legal problem page. Complete the gaps in the letter with the correct preposition. Choose the preposition from the box below.

• of	• in	• to	• into	• through
• for	• from	• over	• at	• against

The Chatsworth Herald www.chatsworthherald.co.uk

Legal corner

Ed Samuelson, Chatsworth lawyer, answers YOUR legal problems.

Dear Ed

I bought a new fitted kitchen from a company called Simply Kitchens in Chatsworth (**a**)_____ June. The total cost of the kitchen was just (**b**)_____ £10,000. It was fitted on 8 July. The kitchen included a fridge that was built (**c**)_____ the system. The fridge broke down in early September and I contacted Simply Kitchens to ask (**d**)_____ a new one. The manager said that I had no right (**e**)_____ a new one and that I had to wait for an engineer to look (**f**)_____ the fridge. The manager told me I would have to wait at least two weeks for an engineer because the fridge was one (**g**)_____ a batch that did not work properly.

The engineer came on 21 September. He told me that two parts of the fridge, the thermostat and the fan, were defective. He replaced them.

It is now 22 November and I have just returned (**h**)_____ a two-week holiday in Goa. When I got home I found that the fridge had broken down again. All of the food in it was bad and the smell when I came (**i**)_____ the front door of my house was terrible. The manager of the Chatsworth branch of Simply Kitchens has told me that I must wait for the engineer to visit me again. He also says the company has no complaints department. What can I do? Can I make a claim (**j**)_____ the company?

Stephen Blakely, Rose Terrace, Chatsworth.

Exercise 2

Here is Ed Samuelson's answer to Stephen's letter. Complete the gaps in the letter with the correct preposition.

• as	• of	• from	• against
• with	• for	• by	• to

Ed says

Dear Stephen

Try writing a letter (**a**)_____ the Chatsworth branch asking for a new fridge. If that doesn't work, SUE them! The manager (**b**)_____ Simply Kitchens admitted that he had originally supplied you (**c**)_____ defective goods, so you have a case (**d**)_____ the company for breach of contract. You bought the fridge (**e**)_____ part of a fitted kitchen and you therefore have what the law calls 'a contract for work and materials' with Simply Kitchens.

This means that your legal rights as a consumer are covered (**f**)_____ the Sale and Supply of Goods Act 1982. The supplier is also responsible (**g**)_____ consequential loss arising (**h**)_____ the defects in the fridge. So, you can claim compensation for the spoiled food as well!

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Exercise 3

Stephen Blakely has followed Ed's advice and he has written this letter to the manager of Simply Kitchens. The words that have been underlined are too informal. Replace these words by choosing the correct word or phrase from the blue box below. Write your answers in the box on the next page. There is an example at the beginning (*).

(*) **Mr Russell**	• **inconvenience**	• **notice**
• **breach**	• **grounds**	• **as soon as possible**
• **issue proceedings**	• **are aware**	• **admitted**
• **replacement**	• **compensation**	

47 Rose Terrace
High Bennington
Chatsworth
CH8 5PG

29 November 20XX

Mr David Russell
Simply Kitchens Ltd
Unit 55, Green Lane Industrial Estate
Chatsworth
C25 1SD

Dear (*) Mr David Russell

Fitted Kitchen, supplied by Simply Kitchens Ltd, June 20XX

In June of this year I purchased a new kitchen from your company for a total price of £10,345. The fridge that you supplied was defective. As you (**a**) know very well, I have had numerous difficulties in trying to get this fridge replaced. This letter is (**b**) warning of my intention to begin legal action if the problem is not rectified immediately.

The kitchen was fitted in June and the fridge broke down for the first time just three months later, on 5 September. When I contacted your office I was advised that I should wait for an engineer to repair the fridge, as I had no right to a (**c**) new one. During that conversation you (**d**) said it was true that the fridge was one of a batch that was defective and that I would have to wait two weeks (without having the facility of a fridge) as your engineer was so busy.

Now the fridge has broken down for a second time, which has caused me both expense and (**e**) personal trouble. I am not prepared to wait for a second visit from an engineer and request that you supply me with a new fridge immediately. I have taken legal advice and I am advised that I have (**f**) reasons to make a claim against your company based on (**g**) dishonour of contract. I understand that as a consumer I am covered by the Sale and Supply of Goods Act 1982. If it is necessary to (**h**) start a legal action in Chatsworth County Court I shall claim for the cost of the fridge and I will also include in the amount of the claim (**i**) money for the consequential loss of spoiled food, which amounts to approximately £150.

I look forward to hearing from you (**j**) very quickly.

Yours sincerely

Stephen Blakely

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(*) **Mr Russell**

a _____ **f** _____

b _____ **g** _____

c _____ **h** _____

d _____ **i** _____

e _____ **j** _____

m

Collocation bank

- to announce the **acquisition** of a company
- to create a **legally binding** contract
- to be **awarded** damages
- the **performance** of a contract
- to **fail** to perform your duties under a contract
- to **rectify** a problem
- to **grant** someone a right to do something
- to be **covered** by a particular law
- a **batch** of goods

m

Preposition bank

- a contract **between** two companies
  'There was an oral contract **between** the two oil companies.'
- to be awarded an amount of money **in** damages
  'The judge awarded us $10,000 **in** damages.'
- in exchange **for** something
  'I gave him my car in exchange **for** his van.'
- to give notice **of** something
  'In his letter he gave us notice **of** his intention to sue us.'
- to buy goods **from** someone
  'We buy most of our electrical goods **from** King Electrics.'
- to supply someone **with** a replacement
  'When my car broke down last month my insurance company supplied me **with** a replacement.'
- to sue someone **on** the grounds of something
  'We sued them **on** the grounds of breach of contract.'

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STARTING A CLAIM FOR BREACH OF CONTRACT

Stephen Blakely has received no answer to his letter to the manager of Simply Kitchens. He has decided to follow Ed Samuelson's advice and sue the company.

On the next page you will see the first page of a claim form. This is the form that a claimant needs to fill in to start a claim in court. Stephen Blakely has decided to make the claim without the help of a solicitor.

Exercise 1

The information below is for the claim form. There are some words missing from part of the information. Fill the gaps with an appropriate word so that the information for the claim form is completed. The first letter of each word is provided for you.

- The value of the claim is £650.
- The claimant's name and address is:
  Stephen Blakely
  47 Rose Terrace
  High Bennington
  Chatsworth
  CH8 5PG
- 6QZ070C2 is the claim number.
- The brief details of the claim are as follows:
  The defendant (**a**) c_____ to fit a kitchen in June of this year. The defendant admits that the fridge that was supplied as part of the kitchen was (**b**) d_____.

  The fridge has broken down twice and the defendant refuses to supply a new one. The claim is to (**c**) c_____ the cost of a second company supplying and fitting a new fridge and for the cost of food that was spoiled during the (**d**) d_____ with the defendant.
- The court fee is £70.
- 14 December 20XX is the issue date.
- There is no solicitor's fee.
- The defendant's name and address is:
  Simply Kitchens Ltd (registered office)
  Unit 7
  Fratton Park Industrial Estate
  High Boldon
  Bradford
  BR40 1DD
- £720 is the total amount.

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Exercise 2

The information in Exercise 1 needs to be put onto the claim form below. Decide where the information needs to go and then complete the claim form for Stephen.

Claim Form

Click here to clear your data after printing

In the	
	for court use only
Claim No.	
Issue date	

Claimant

SEAL

Defendant(s)

Brief details of claim

Value

Defendant's name and address

	£
Amount claimed	
Court fee	
Solicitor's costs	
Total amount	

The court office at

is open between 10 am and 4 pm Monday to Friday. When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number.

NI Claim form (CPR Part 7) (01.02) *Printed on behalf of The Court Service*

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USING YOUR KNOWLEDGE

Collocation review

Complete these sentences with a collocation that you have seen.

a I would like to _____ one or two amendments to the document that you have sent to me.

b In England a statute has to pass through three _____ before it becomes law.

c If a judge makes a decision it may become _____ on other courts of the same level and on lower courts.

d Your client has _____ to perform her duties under the contract and therefore we will start legal action.

e Case law is also sometimes known as the _____ law.

f To make an enforceable contract both parties must _____ consideration.

g The judge _____ down his decision at four o'clock this afternoon.

h In which court is your case being _____ this morning?

i The judge _____ damages of £5000.

j We wish to _____ against the decision of the court of first instance.

Vocabulary review

Complete these sentences with a word that you have seen.

a My offer to you was made months ago and you can no longer accept due to _____ of time.

b A _____-offer suggests alternative terms and has the effect of cancelling the original offer.

c An _____ contract is a spoken agreement.

d Another name for an Act of Parliament is a _____.

e When a contract is being formed, the two parties are known as the _____ and the offeree.

f The judge in the Court of Appeal _____ the decision of the court of first instance and reversed the result of the case.

g Consideration must be _____, meaning that if only one party provides it there is no contract.

h The opposite of benefit is _____.

i Most contracts involve both parties making a promise and they are therefore described as _____ and not unilateral.

j A contract that must be in a written form in order to be legally valid is called a _____, sometimes known as a contract under seal.

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Preposition review

Complete these sentences with the correct preposition.

a Please put your complaints _____ writing and send them to our manager.

b In England and the USA much of the law is made _____ judges due to the common law system.

c You are _____ a legal obligation to sell the house now that you have signed the contract of sale.

d We all need to stay in the office _____ 8pm to finish this important project.

e The new Bill has passed _____ the debate stage and the members of the House of Commons will vote on it next week.

f The construction company was sued _____ its promise to finish building the hotel by December as it wasn't finished until the following July.

g I am acting _____ my barrister's advice and not taking my claim any further.

h The agreement _____ Charles and Michael was made two years ago.

i I didn't email my acceptance to you, as my server was down. I sent it _____ post instead.

j I have forgotten the name of an important contract case and I will need to look it up in the law library. I remember it is _____ the year 1995.

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TOLES HIGHER EXAM PRACTICE

Exercise 1

There is a word or phrase missing from the following sentences. For each sentence, circle the word which best fits into the space from the options provided. Do not mark more than one answer for each sentence. There is an example at the beginning (*).

Example In the English legal system a precedent is (*) _____ upon similar future cases.

1 The case you mention from 1976 is very similar to the current case but I think it is possible to (1) _____ between them.

2 The claimant was (2) _____ damages of £100,000.

3 The decision of the first judge was (3) _____ by the judges in the Court of Appeal.

4 An offer can come to an end due to (4) _____ of time. It means that too much time has passed since the offer was made.

5 When a person who makes an offer withdraws it before it can be accepted we can say that the offer has been (5) _____.

6 According to English contract law, acceptance must be (6) _____ and cannot be by silence.

7 Consideration in contract law requires the parties to gain a benefit or suffer a (7) _____.

8 When a lawyer refers to the (8) _____ he or she puts upon a contract term it is a more formal way of referring to his or interpretation or understanding of that term.

9 Specific (9) _____ is an order from a court that tells a party in breach to carry out his or her obligations under a contract.

10 According to English contract law consideration must be (10) _____, which means that both parties must give or receive something and not just one of them.

(*)	**A** enforceable	**B** unavoidable	**C** binding	**D** obligatory
(1)	**A** differ	**B** distinguish	**C** separate	**D** discriminate
(2)	**A** ordered	**B** handed	**C** awarded	**D** granted
(3)	**A** overruled	**B** annulled	**C** refused	**D** rejected
(4)	**A** conclusion	**B** ending	**C** lapse	**D** disappearance
(5)	**A** revoked	**B** cancelled	**C** negated	**D** invalidated
(6)	**A** said	**B** contributed	**C** given	**D** communicated
(7)	**A** difficulty	**B** detriment	**C** injury	**D** disadvantage
(8)	**A** meaning	**B** elucidation	**C** version	**D** construction
(9)	**A** action	**B** execution	**C** performance	**D** completion
(10)	**A** reciprocal	**B** joint	**C** common	**D** shared

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Exercise 2

Read the text below and think of the word that best fits each space. Use only one word in each space. Write your answers in the box below. There is an example at the beginning (*).

The elements of a contract

A contract is an agreement between two or more people or companies who are known as the (*) _____ to the contract. However, in order for a contract to be recognised as legally (1) _____ upon the parties, certain conditions must be met. According to English law there is no requirement that a contract is in (2) _____ in order for it to be valid. Many high-value contracts are made orally. What is important is that the agreement contains the four essential elements of a contract. These are:

- (3) _____ to create a legal relationship
- Offer
- Acceptance
- Consideration

An offer is an indication from one person that he or she is prepared to contract with one or more other people on (4) _____ which are certain. This means that the most important provisions of the agreement such as price, quality and date must be fixed. If, for example, an offer is made and the (5) _____ (the person to whom the offer is made) suggests changes to that offer then no contract will have been formed. This is because the effect of any suggested change to an original offer is to cancel it. The offer will no longer be open to acceptance because a (6) _____-offer has been made.

There are also some important rules governing acceptance. There are for example, several common law (7) _____, which are decisions taken by judges in previous cases, that tell us that acceptance can be made by conduct but that it cannot be made by silence. There are other rules about acceptance by post or email. These objective rules tell us when acceptance is considered to have been received by the offeror when a particular means of acceptance, for example, email, is used. Acceptance cannot, as we have already stated, contain any suggested changes to the original offer. Acceptance must be absolute.

According to English law (8) _____ must be exchanged by the parties in order to form a binding contract. This means that there has to be something of value passing in both directions between the parties. The (9) _____ to this is where the parties agree to form a contract despite the absence of this normally vital element. This requires the parties to sign a special document known as a (10) _____. It is sometimes also known as a contract under seal.

Example (*) parties

(1)	(6)
(2)	(7)
(3)	(8)
(4)	(9)
(5)	(10)

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Listening

Exercise 3

Listen to the seminar given by a professor of law to two students. Decide if the following statements are true or false.

1 The professor asked her students to read 285 pages of contract law for homework.

2 The law students at this seminar have already studied some of the elements of a contract.

3 Mr Brown's event is called 'Save the Planet Day'.

4 Mr Brown decides to hold the event in two parks in London and Manchester.

5 Mr Brown promises the manager of Sellfast UK an extra £1000 if he can persuade the Ethical Food Company to attend his event.

6 In the case of *Stilk v Myrick* the captain of the ship offered the men on board his ship a bonus if they would sail the ship safely back to England.

7 The case of *Stilk v Myrick* is from 1890.

8 The claimant in the case of *Stilk v Myrick* was one of the sailors.

9 The claimant won in the case of *Stilk v Myrick*.

10 The professor thinks that a court would oblige Mr Brown to pay Sellfast UK the extra £1000 based on the case of *Williams v Roffey*.

True or false?

(1)	(2)	(3)	(4)	(5)
(6)	(7)	(8)	(9)	(10)

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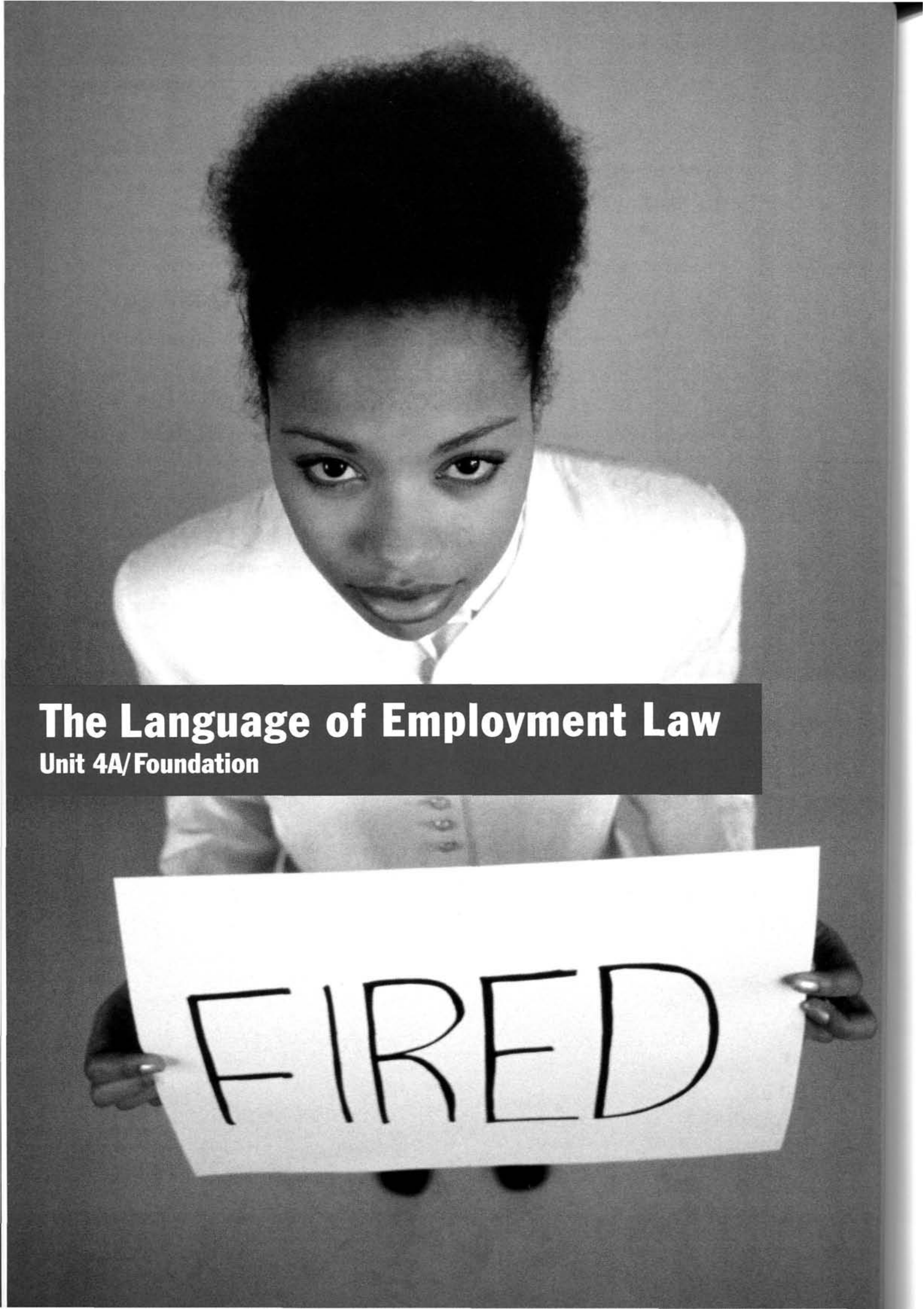

The Language of Employment Law

Unit 4A/Foundation

THE LANGUAGE OF EMPLOYMENT LAW

BEING AN EMPLOYER

Exercise 1

Read this text about being an employer. The most important words are in the key vocabulary below. Answer the questions that follow using a full sentence.

Key vocabulary

- **employer**
- **employees**
- **staff**
- **manager**
- **secretary**
- **admin work**
- **payroll**
- **part-time**
- **salary**
- **pay**
- **wages**
- **order**
- **full-time**
- **remuneration**
- **invoices**
- **suppliers**

'My name is Peter Connolly and I am an **employer** in the town of Chatsworth. This means that I have a business and I pay people to work for me. I am the owner of two shoe shops and I employ a total of 12 **employees**. Another word for a group of employees is **staff**. Some of my staff work in the shops and some of them work in the office. Our office is situated above one of the shops. I employ an office **manager** and a **secretary** in the office. A manager has control of the office. A secretary is a person who helps the office manager with his or her work. These two people are my office staff and they deal with all of the **admin work** connected with the shops. 'Admin work' is short for administrative work. For example, the office staff **order** goods to sell in the shops and they also pay the **invoices** we receive from **suppliers**. Another duty of the office staff is to deal with the **payroll**. The payroll is a list of people who work for the business. The payroll shows me who works for the business and what **remuneration** each person receives from me each month. Remuneration is a formal word meaning 'payment'. My employees receive a **salary**. A salary is an amount of money that an employee receives each month. Employees who receive payment every week usually refer to this money as **wages** rather than salary. Both salary and wages are sometimes called '**pay**'. Some of my employees work **full-time** and some of them work **part-time**. My full-time staff work for 35 hours a week and my part-time staff work for 15 hours a week.'

a What type of shops does Peter Connolly own in Chatsworth?

Answer: _____

b How many staff does Peter Connolly employ?

Answer: _____

c How many staff work in the office of the business?

Answer: _____

d What information does the payroll show Peter Connolly?

Answer: _____

e What does remuneration mean?

Answer: _____

f Are Peter Connolly's staff paid weekly or monthly?

Answer: _____

g How many hours a week do Peter Connolly's full-time staff work?

Answer: _____

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Exercise 2

Peter Connolly needs a new employee to work as a sales assistant in one of his shops. He decided to put an advertisement in his local newspaper. The most important words from the advertisement are in the key vocabulary. Put the correct word from the key vocabulary into the sentences below the advertisement to complete each definition.

Key vocabulary

- **team**
- **well-motivated**
- **applicant**
- **track record**
- **wide range**
- **temporary**
- **maternity leave**
- **C.V.**
- **covering letter**
- **closing date**

*An exciting opportunity to be part of our great sales **team**!*

THE CHATSWORTH SHOE BOX

...is looking for a **well-motivated** sales assistant to work in our busy town centre shop. The successful **applicant** must be prepared to work 35 hours a week (full-time) and should have a good **track record** in the retail industry. He or she will have a **wide range** of duties including serving members of the public and window-dressing. The position is a **temporary** one for 12 months to cover **maternity leave**.

Apply by sending your **C.V.** and a **covering letter** to:

Mr Peter Connolly
The Chatsworth Shoe Box
10 Portugal Place, Chatsworth CH1 1BD.

The **closing date** for applications is 25 August.

a A _____ person is someone who is ambitious and wants to work hard.

b A period of _____ is the time that a woman is away from work before and after the birth of her baby.

c A _____ is a document that tells an employer about a person's previous experience of work and what qualifications that person has. This document is called a 'resume' in the USA.

d A _____ is an informal name for a group of people who work together.

e A _____ of duties means a variety of different duties.

f Something that is _____ is only for a limited period of time. It is the opposite of permanent.

g An _____ is a person who asks to have something, especially a job.

h A _____ is the name of the letter that a person sends with a job application.

i The _____ for a job application is the last date that the employer will accept an application from someone.

j A person who has a _____ in a particular job has previous experience of doing that job.

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Help desk

What do these words mean?

a sales assistant – a person who sells goods or services in a shop.

the retail industry – the industry involved in buying goods and selling them to the public.

window-dressing – preparing a shop window in an attractive way so that the public are interested in buying things from the shop.

Exercise 3

Peter Connolly received this letter today from someone who is interested in the job at his shop. Read the letter and decide in each case which is the correct preposition from the two possibilities. Write your answers in the spaces below.

6 Kenton Road
Chatsworth CH6 2DD
Mobile: 07779 34500
Email: AndreaF@chmail.co.uk

Mr Peter Connolly
The Chatsworth Shoe Box
10 Portugal Place
Chatsworth CH1 1BD

20 August 20XX

Dear Mr Connolly

Job (*) **as/of a full-time sales assistant**

I would like to apply (**a**) **to/for** the job of a full-time sales assistant at the Chatsworth Shoe Box as advertised (**b**) **in/at** Thursday's Chatsworth Herald. Please find enclosed a copy of my C.V.

My previous jobs include two years as a sales assistant in the footwear department (**c**) **at/within** Selfridges on Oxford Street, London. This gave me experience of dealing with customers, as well as basic cashier skills and a good knowledge of the shoe retail industry.

I have good communication skills and also speak basic Spanish and Italian, which may be useful when dealing with customers whose first language is not English. I am an enthusiastic worker and enjoy working as part of a team. I returned (**d**) **to/in** Chatsworth a week ago after a year of travelling around Europe and I am free to start work immediately.

I would welcome the opportunity to discuss the sales position with you on the telephone or at interview. I can be contacted on my mobile phone or by email (please see details (**e**) **on/at** the top of this letter). I look forward to hearing (**f**) **from/of** you.

Yours sincerely

Andrea Farrell

Answers

Example (*) as **a** _____ **b** _____ **c** _____ **d** _____ **e** _____ **f** _____

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Exercise 4

Read Andrea Farrell's letter again. Find a word in the letter to complete the following sentences.

a To _____ *for something, such as a job, means to ask if you can have that job.*

b When I say 'please find my C.V. _____' it means that I have put my C.V. in the envelope together with my covering letter.

c A _____ is a person who deals with the money that a shop or a business has in its cash register at the end of every day.

d Your _____ are the things that you can do well, especially in relation to your job.

e If you are _____ about something, it means that you like that activity and you enjoy doing it.

f If you are _____ to start work, it means that you are available to begin working immediately.

g An _____ is the chance to do something.

h *If a* _____ *is available with a particular company it means that the company has a job for* which it needs an employee.

Help desk

What do these words mean?

communication skills – a person's ability to speak and listen to other people in an effective way. The opposite of good communication skills is poor communication skills.

cash register – the machine into which a shop or some other business puts the money when a customer pays for something. Also called 'a till'.

AN EMPLOYMENT CONTRACT

There are two very important words connected with talking about any contract. These are:

- **clause** (noun): a clause is a *section* of the contract. A clause usually has a number, for example, clause 1 of the contract. Sometimes a clause is divided into further sections, for example, 1.1, 1.2, 1.3, etc.
- **provision** (noun): a provision is a *term* contained in a contract. All of the terms and conditions of a contract are called the provisions of the contract. Lawyers often use the verb 'to provide', for example, 'Clause 1 of the contract provides that the employee is entitled to four weeks' holiday every year'. This means that is it an obligation of the employer to give the employee four weeks' holiday.

Exercise 1

Here are the titles of some clauses that you will find in an employment contract. Lawyers usually call them 'clause headings'. On the next page are descriptions of what each clause deals with. Match the headings of the clauses with the descriptions provided.

- **Term of the contract**
- **Job title**
- **Working hours**
- **Remuneration**
- **Holidays**
- **Sick pay**
- **Grievance procedure**
- **Disciplinary procedure**
- **Pension**
- **Confidentiality**
- **Non-competition**
- **Termination**

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a This clause deals with the payment that the employee will receive in return for working for the employer.

The clause heading is _____

b This clause deals with the employee's obligation not to tell anyone about certain information that belongs to the employer.

The clause heading is _____

c This clause deals with the period of time that the contract will be valid.

The clause heading is _____

d This clause deals with the amount of time that the employee is obliged to work every week or month.

The clause heading is _____

e This clause deals with what the employer must do if he or she is unhappy with the way that the employee is behaving at work.

The clause heading is _____

f This clause deals with the arrangements for the employee to have money in his or her old age.

The clause heading is _____

g This clause gives the name of the employee's job.

The clause heading is _____

h This clause deals with the time that the employee is allowed to stay away from work to rest and relax and still receive his or her pay.

The clause heading is _____

i This clause deals with the ways in which the contract of employment can end.

The clause heading is _____

j This clause deals with what an employee must do if he or she is unhappy at work and wants to complain to the employer.

The clause heading is _____

k This clause deals with the employee's obligation after the contract of employment ends not to start the same business or work for a rival of the employer for a certain period of time.

The clause heading is _____

l This clause deals with the money that an employer must pay to an employee when the employee is ill and cannot work.

The clause heading is _____

Help desk

What do these words mean?

a rival – a person or an organisation that is in the same business as you and is in competition with you for the same customers or clients.

procedure – the accepted or correct way of doing something.

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Exercise 2

A new employee has some questions about her employment contract. Complete each question using the correct word from the box below.

hours	**term**	**sick pay**	**salary**
provisions	**title**	**holiday**	**terminate**

a What does the _____ of the contract mean?

It means the duration of the contract.

b What are the _____ of a contract?

They are all of the terms and conditions contained in the contract.

c What is my job _____?

It is assistant manager.

d What are my _____ of employment?

Monday to Friday, 9am to 5.30pm.

e What will my annual_____ be?

£25,000 a year.

f How many weeks' _____ can I have?

You are entitled to four weeks a year, in addition to public holidays.

g Am I entitled to _____ when I am ill?

Yes. But you must provide us with a medical certificate.

h How much notice must I give if I want to _____ the contract?

Four weeks. We use that time to find a new employee who can begin work at the time that you leave us.

Exercise 3

Here are the clause headings from Exercise 1 again. Below are some very short extracts from an employment contract. Match the correct heading from the blue box with each extract.

Term of the contract	**Holidays**	**Pension**
Job title	**Sick pay**	**Confidentiality**
Working hours	**Grievance procedure**	**Non-competition**
Remuneration	**Disciplinary procedure**	**Termination**

a 'For a period of 12 months after the termination of this agreement the Employee agrees that he or she will not start a business that is the same or similar to the Employer's business.'

The clause is _____

b 'The Employer shall pay the Employee a salary of £21,000 a year.'

The clause is _____

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c 'If you have a complaint relating to your employment you should follow the procedure attached to this contract in order to inform your manager about your complaint.'

The clause is _____

d 'The Employer agrees to employ the Employee in the position of sales assistant.'

The clause is _____

e 'On the first day of your absence from work you must inform your manager. If you are absent for more than seven days you must provide your manager with a medical certificate signed by your doctor.'

The clause is _____

f 'This contract is for a duration of 12 months.'

The clause is _____

g 'Employees who wish to contribute to the Fund may do so until the age of 65 years.'

The clause is _____

h 'The Employee is entitled to 25 days per year in addition to public holidays.'

The clause is _____

i 'The Employee shall not during the term of his or her employment disclose any material information relating to his or her employment to any third party.'

The clause is _____

j 'A summary of the rules and procedures that the Employer must follow in relation to difficulties with the Employee's performance in the workplace is attached to this contract.'

The clause is _____

k 'The Employee is required to work Mondays to Fridays between 8.30am and 5.30pm, with one hour for lunch.'

The clause is _____

l The Employer may end this agreement by giving four weeks' written notice to the Employee.'

The clause is _____

Help desk

What do these words mean?

absence – when somebody is not in the place where you expect that person to be, such as at school or at work, then it is described as an absence. The adjective is 'absent'.

fund – an amount of money that a person or an organisation keeps for a particular purpose. It can be to pay for something special, such as a college fund to pay for education, or it can be a way of saving money to spend in the future, such as a pension fund.

material – important, significant.

public holiday – a day that the government says is a holiday for everyone in the country. The important public holidays in the UK are Christmas Day and New Year's Day. In the USA 4 July is also a public holiday.

notice – a warning period. When you give notice to someone you tell that person that something is going to happen in the future.

contribute – to give money towards something. This is often because you want to, and not because it is an obligation.

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HOW CAN AN EMPLOYMENT CONTRACT END?

Read this information about the ways that an employment contract can end and then do the exercises that follow.

Resignation

The employee resigns from his or her job. This means that the employee informs the employer that he or she will stop working for the employer's business. This might be because the employee wants to work for a new employer. The employee must usually tell the employer in writing that he or she wishes to resign. This is called a letter of resignation. The employee will usually work a notice period of perhaps two weeks or four weeks. This means, for example, that an employee who wishes to stop work on 1 July must give his or her employer a letter of resignation on 3 June. Resigning is known informally as 'handing in your notice'.

Retirement

The employee retires from work. This means the employee leaves his or her job with the intention not to work again because he or she is a certain age. In many countries the age of retirement is 65 years old. However, some employees choose to take early retirement if they have enough money. When an employee retires they must live on the money they receive from their pension. Most people in the UK have a state pension, which they receive from the government. When they are working they pay some money to the government each month to pay for their pension. In the UK this is called a National Insurance contribution. Some people also have a private pension plan. This is because they want more money than the state pension gives them.

Redundancy

The employee is made redundant. This means that an employee leaves his or her job because the employer does not need them. This might be because business is not good for the employer or because the business is closing. The employee usually receives a redundancy payment. This is an amount of money that the employer pays to the employee as a final payment. The amount of money that the employee receives sometimes depends on the number of years that he or she worked for the employer. The employer sometimes offers the employee training for a new career as part of the redundancy deal. Training means learning the skills necessary to do a different job.

Dismissal

The employer dismisses the employee. The employee is dismissed. This means that the employer is unhappy with the performance or behaviour of the employee and tells him or her that they no longer have a job. This might be, for example, because the employee is not doing the job well or because the employee is always late for work. Dismissal is known informally as 'being fired' in the USA and as 'being sacked' in the UK. Employment law states that the employer must follow a certain procedure of warning the employee before this can happen. However, the employer is not obliged to follow this procedure when the employee is guilty of gross misconduct. Gross misconduct is very bad behaviour, such as stealing money from the employer.

A fixed-term contract ends

The employee stops working for the employer or leaves the company because his or her contract was for a specific period of time, which has ended. For example, I agree to work in an office for six months. My contract is a fixed-term contract for six months. At the end of the six-month period I stop working for that employer.

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Exercise 1

Choose a word from the previous page to complete these sentences about resignation.

a To _____ means to tell your employer that you intend to stop working for him or her.

b The correct way to resign is usually to give your employer a letter of _____.

c When an employee resigns he or she must usually work a _____ period of several weeks.

d In the UK the informal way to say 'resigning' is to say _____ in your notice.

Exercise 2

Choose a word from the previous page to complete these sentences about retirement.

a To _____ from work means to stop working with the intention that you will not work again.

b Some people choose to take early _____ and stop working at the age of 45 or 50 years old, for example.

c When a person retires they usually live on the money from a _____.

d A private pension _____ is a way of saving extra money for old age in case the money from the government is not enough.

Exercise 3

Choose a word from the previous page to complete these sentences about redundancy.

a When an employee is made _____ it is usually because the employer no longer needs so many workers.

b _____ is a great problem in western Europe and the USA at the moment. This is because many goods and services are cheaper to produce in other countries.

c The final payment that an employer pays to an employee can be a very large amount of money. This is called a final redundancy _____ and sometimes depends on the number of years that the employee worked for the employer.

d When John lost his job at the car factory he was offered a _____ course in computer skills to help him find a new job.

Exercise 4

Choose a word from the previous page to complete these sentences about dismissal.

a The printing company _____ Jason because he did some printing for his friend and he did not ask his friend to pay for it.

b I dismissed an employee for gross _____ last year because she telephoned me to say that she was ill but really she was on holiday in Spain.

c My employer did not follow the correct _____ when he dismissed me. My lawyer says that I can make a claim against my employer because he breached employment law.

d The informal word for dismissed in the USA is 'fired' and in the UK it is '_____'.

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Exercise 5

Choose a word from the previous page to complete these sentences about the end of a fixed-term contract.

a I am _____ the company at the end of the month because my contract ends on 31 July.

b My contract with the airline is for a _____ term of 12 months so I leave next April.

c We cannot employ you after March. Your contract is for a specific _____ of time and it ends on 31 March.

d Your contract will be for a fixed, 12-_____ term.

Exercise 6

Complete these sentences with the correct preposition.

a Susan resigned _____ her job last week.

b I wrote a letter _____ resignation and gave it to my employer yesterday.

c How much money will you have to live _____ when you retire?

d I was fired because I was always late _____ work.

e Resigning from work is sometimes known informally as 'handing _____ your notice'.

f Two employees were guilty _____ gross misconduct and they were sacked immediately.

g My contract of employment is _____ a term of 18 months.

h Last week I informed my employer that I intend to stop working for her _____ 30 September.

i Your employer will pay you a redundancy payment _____ £10,000.

j The amount of money you receive as a redundancy payment depends _____ the number of years you worked for your employer before you were made redundant.

ACTING FOR AN EMPLOYEE

Exercise 1

Emma Lucas is an employment lawyer in Chatsworth. Read what she says about representing employees in employment cases. The most important words are in the key vocabulary below. On the next page you will see some questions and answers. Match each question with the correct answer.

Key vocabulary

- **grievance**
- **procedure**
- **constructive dismissal**
- **consult**
- **tribunal**
- **grounds**
- **discrimination**
- **disability**
- **harassment**
- **bullying**
- **unfair dismissal**
- **appraisal**

'When I represent an employee it is usually because he or she has a **grievance** against an employer. A grievance is a complaint. The law says that employers must listen to grievances and help the employee. Unfortunately some employers do not do this. Employees often come to me because the employer has not followed the correct **procedure** for dealing with a grievance. When an employee leaves a job because the employer does not listen to a grievance, the law

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says that it is not fair. Sometimes employees **consult** me because although the employer followed the correct grievance procedure, the employee feels they were not treated in a fair way. The employee has the right to make a claim against the employer in a special employment court called a **tribunal**. Most towns and cities in the UK have a Tribunal Office where an employee can file a claim. When an employee makes a claim to a tribunal he or she must state the **grounds** for the claim. Here are some of the reasons that employees give to a tribunal:

- **Discrimination**. To discriminate against someone at work means to act towards that person in a different, more negative way from other employees. Employees often claim that they had a bad experience at work because of their age, their sex, the colour of their skin, their nationality, or because they have some physical or mental **disability**.
- **Harassment**. To harass someone means to act towards someone in a way that makes that person feel uncomfortable or distressed. Sometimes it is the employer who harasses the employee. Sometimes it is other employees who do it. In this case the employer has a duty to stop the harassment. If the employer does not stop the harassment and the employee leaves work, it is **constructive dismissal**. The employee can make a claim against the employer if this happens. Harassment is sometimes called **bullying** in the workplace. In Europe the word 'mobbing' is sometimes used. This word is not used in the UK.
- **Unfair dismissal**. If an employer unfairly dismisses an employee, it means that the employer fired the employee without a good reason. Most employers do what is called an **appraisal** of an employee's performance every year. An appraisal is an evaluation or a judgment of how the employee is doing. If an employee gets two or three bad appraisals the employer might not want to continue employing that person. The problem is, employees often think their appraisal was unfair.'

What is a grievance? (1)

What is a procedure? (2)

What is an employment tribunal? (3)

What does discrimination mean? (4)

What does harassment mean? (5)

What is constructive dismissal? (6)

What is unfair dismissal? (7)

What is an appraisal? (8)

a It is a special court. It hears employment cases. It is less formal than a normal court but it has its own rules, which people must obey.

b It is when an employee leaves a job because he or she is very unhappy and the employer is doing nothing to help the situation.

c It means treating someone in a different way at work. It may be because that person is a woman or has a disability, for example.

d It is the accepted, correct way of doing something.

e It is a type of assessment of someone's performance, especially at work.

f It is when an employer fires an employee, and the employee thinks that there was not a good reason for it.

g It means behaving in a way that makes someone feel very unhappy or uncomfortable.

h It is a complaint.

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Exercise 2

Complete these sentences with a word or phrase from the key vocabulary in Exercise 1.

a I am sure my employer treats me badly because I am a foreigner. My lawyer says that I can sue my employer on the grounds of _____.

b I was the only woman in my office. The men working there made jokes about me all of the time and said that my job was only to make coffee for them. I stopped working there because it was horrible and my employer didn't help me. The grounds for my claim were _____ dismissal.

c I have made a claim against my employer. The case will be heard next month by an employment _____.

d I had an _____ from my employer last week. It was very good. My employer said that I am a good employee and I work well with others.

e I am making a claim for _____ dismissal. My employer sacked me last month and the only reason was that my employer's daughter wanted to have my job.

ACTING FOR AN EMPLOYER

Exercise 1

The employment lawyer, Emma Lucas, is going to talk about acting for an employer. Before you read what Emma says, complete the definitions of the words below by matching the first half of each sentence with the correct ending.

(*) **Non-contentious work** is...

a **Legislation** is...

b **Regulations** are...

c A **seminar** is...

d A **duty of care** is ...

e **Contentious work** is...

f An **allegation** is...

g To **dock pay** means...

h To be **fired on-the-spot** means...

i A **trade union** is...

j A **strike** is...

...a meeting where a group of people learn and talk about a new subject. (1)

...work that does not involve any kind of dispute or argument between people.

...all of the laws passed by a government or an organisation such as the European Union. (2)

...a statement that someone has done something wrong. However, it is not proven. (3)

...to keep part of someone's salary as a punishment because that person did something wrong. (4)

...an organisation of workers who unite for better pay and working conditions. (5)

...rules that a person or a country must obey. (6)

...work that a lawyer does that involves a dispute or an argument between people. (7)

...a duty to take care and not to harm anyone by your actions. (8)

...that an employee is dismissed immediately and without any warning. The more formal way of saying fired on-the-spot is to say that the employer dismissed the employee 'summarily'. (9)

...a situation where a group of employees stop working for a period of time because of a disagreement with an employer. (10)

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Exercise 2

Here is what Emma Lucas says about acting for an employer. Choose a word or phrase from the box below to complete the text.

docked	**legislation**	**on-the-spot**	**seminars**	**contentious**
allegations	**regulations**	**strike**	**duty of care**	**trade union**

'Acting for an employer is very different from acting for an employee. Often my job is doing non-contentious work. Non-contentious means that the employer is not involved in a dispute with anyone. It means doing work such as drafting contracts of employment or giving employers some advice about the latest (**a**) _____. There are many (**b**) _____ that employers need to know about. A lot of these come from the European Union. It is very important that employers comply with employment law. This means that employers must follow employment law. To inform employers about new legislation my law firms holds (**c**) _____. These are meetings where groups of employers receive information from our law firm about how new laws will affect them. The employers can ask us questions if they are not sure about anything. A lot of new regulations are about health and safety issues. For example, an employer has a (**d**) _____ to employees and to any people who visit the employer's premises. In this situation, the duty of care is a duty to make sure that no employee or visitor is harmed. This includes things like making sure that employees have the proper training to do their job correctly and safely. It also includes making sure that machinery or office equipment is safe.

Sometimes I have to do (**e**) _____ work. This is because an employee makes a claim against my client, the employer. Some employees make very serious (**f**) _____ and it is my job to defend my client at an employment tribunal. Sometimes the employee's claim is valid and the employer must pay compensation. Last month I advised an employer who (**g**) _____ an employee's pay as a punishment because the employee was always late for work. This means that the employer kept part of the employee's pay. I explained to the employer that he is not allowed to do this. A tribunal would support the employee in this situation. Another employer fired an employee (**h**) _____ for being late. This means he dismissed the employee immediately and without warning. Again, I explained that this is not legal. In that case, the employee's (**i**) _____ became involved. This is an organisation of people who work in the same job or profession who help each other when a member has a problem like this. An employer has to be careful because when a trade union is involved it could lead to a (**j**) _____. This is a situation where a group of employees stop working because one of them or a group of them have a grievance against the employer.'

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AN EMPLOYMENT CASE

Exercise 1

Julie Murphy is an employee. She is making a claim against her employer at an employment tribunal. Read the information in the box and answer the questions that follow using a full sentence.

'My name is Julie Murphy. Today I am at an employment tribunal. I am the claimant. I am making a claim against my former employer. I must use the word 'former' because he is no longer my employer. My former employer has an estate agency in the town of Chatsworth. An estate agent sells houses. His name is Keith Penhaligon. I worked for Mr Penhaligon as a receptionist in his office for four years. My job was to welcome people who came into the office and give them information about property that was for sale. I liked my job. I was a good employee. I was never late for work. I had a good relationship with my colleagues. During the four years that I worked there I only had two days' absence.

Six months ago Mr Penhaligon said that he needed an assistant manager. He advertised the vacant position in the local newspaper. The advertisement said that candidates for the job should be 'young and ambitious and with previous experience of working for an estate agent'. I am 27 years old, very ambitious and I have experience. I applied for the job. 15 other people also applied for the job. Mr Penhaligon refused to interview me for the job. He explained that it was a waste of his time to discuss my C.V. and talk about the job. He told me this was because I got married a year ago. He said that he was afraid I would have a baby very soon and would need lots of time away from work. He said he would prefer to employ an older woman or a man. I stopped working for Mr Penhaligon immediately. I am very angry. I am making a claim on the grounds of discrimination.'

a What type of business does Julie Murphy's former employer have?

Answer: _____

b What was Julie Murphy's job?

Answer: _____

c Did Julie Murphy have a good relationship with the other people in her office?

Answer: _____

d How many days did Julie Murphy have away from work?

Answer: _____

e Where did Mr Penhaligon advertise the job of assistant manager?

Answer: _____

f What was the total number of candidates for the job of assistant manager?

Answer: _____

g What did Mr Penhaligon refuse to do?

Answer: _____

h Who would Mr Penhaligon prefer to employ as assistant manager?

Answer: _____

i How does Julie Murphy feel about Mr Penhaligon's decision?

Answer: _____

j What are the grounds for Julie Murphy's claim?

Answer: _____

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UNIT 4A VOCABULARY CHECK

These are the important words you have studied in Unit 4A. You should make sure that you know these words before you go on to Unit 4B.

absence
absent
applicant
apply
appraisal

bullying

candidate
cashier
clause
closing date
confidentiality
constructive dismissal
contentious
covering letter
C.V.

disability
disciplinary
discriminate
discrimination
dismiss
dismissal
dismissed
dock

employee
employer
estate agent

fired
fixed-term contract
former
full-time

grievance
gross misconduct

harass
harassment

interview

job title

made redundant
manager
maternity leave
misconduct

non-competition
non-contentious
notice period

on-the-spot

part-time
pay
payroll
pension
procedure
provide that
provision

redundancy
redundant
regulations
remuneration
resign
resignation
retire
retirement

sacked
salary
secretary
seminar
sick pay
staff
strike

team
temporary
term
termination
track record
trade union
tribunal

unfair dismissal

vacant position

wages
well-motivated
wide range

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TOLES FOUNDATION EXAM PRACTICE

Exercise 1

Look at the sentences below. Each sentence contains a mistake. The mistake is either an incorrect word or a word that should not be there. Put a circle around the word. Do not circle more than one word for each sentence. There is an example at the beginning (*).

Example

(*) The telephone company employs thousands of staffs.

1 Your skills are the things that you can do good.

2 Your employer did not make the correct procedure when he dismissed you.

3 Could you please confirm me that you agree to pay my client for his work?

4 Marco explained me at our meeting that his company dismissed him because he is a foreigner.

5 I would like to discuss about my salary for next year.

Exercise 2

Read the text below. There are ten words missing from the text. In the spaces below, write the missing words. The first letter of each word has been provided for you. There is an example at the beginning (*).

DISMISSING AN EMPLOYEE FOR GROSS MISCONDUCT

Gross misconduct is (*) _____ that is completely unacceptable. When an employee is guilty of gross misconduct the law does not expect an employer to tolerate it. The employer can usually dismiss the employee without giving him or her any warning. A lawyer would describe this as dismissing the employee without (1) _____.

When an employee is dismissed on the (2) _____ of gross misconduct he or she might file a (3) _____ against the employer in a special court called an employment tribunal. The tribunal will take several (4) _____ into account when deciding if the employer acted fairly. One of the most important things that an employer must do is make sure that the correct disciplinary (5) _____ is followed. Even in cases of very serious misconduct the employer should:

- Inform the employee in (6) _____ what the problem is, as well as speaking to him or her about it. This normally takes the form of a letter.
- Allow the employee a face-to-face meeting to discuss the misconduct. The employer must tell the employee that he or she is entitled to a have a (7) _____ union representative or some other witness present at that meeting.
- Allow the employee to (8) _____ against the decision if he or she is dismissed.

Employers must follow these rules. It is very dangerous to dismiss an employee on-the-(9) _____. This means asking the employee to leave immediately without having a proper investigation. If an employer does this, then the employee will almost certainly (10) _____ for damages and he or she is very likely to win.

(*) **b**ehaviour

(1) **n** _____

(2) **g** _____

(3) **c** _____

(4) **f** _____

(5) **p** _____

(6) **w** _____

(7) **t** _____

(8) **a** _____

(9) **s** _____

(10) **s** _____

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Exercise 3

Read the text below. It is from a contract. Some of the words in the text are underlined. The meanings of these words appear in the list below, but they are not in the same order. Match the underlined words in the text with the correct meanings by writing the letters (A, B, C, etc) in the list below. There is an example at the beginning (*).

FROM AN EMPLOYMENT CONTRACT

2. The (AA) Term of this Agreement shall commence on 1 December 20XX and shall continue until 30 November 20XX unless terminated by either (A) party in accordance with the (B) terms of this Agreement.
3. The Employer agrees that (C) remuneration shall be paid into the Employee's bank account on the 25th day of each calendar month.
4. The Employee shall (D) be entitled to normal remuneration during sickness (E) absence for a maximum of six weeks in any period of 12 months.
5. The Employee shall be entitled to (F) contribute to the Employer's (G) pension scheme.
6. The Employer may (H) terminate this Agreement without notice if the Employee shall at any time:
   - Be guilty of gross (I) misconduct.
   - (J) Disclose confidential information which has detrimentally affected the interests of the Employer.

(*) AA	the duration of the contract. The period of time for which the contract is valid
	bad or unacceptable behaviour
	tell, reveal
	end
	the duties and conditions contained in a contract
	to have the right to something
	a person or company who signs a contract
	a period of time a person is away from the place they are expected to be
	money that a person receives after he or she stops working
	to give because you choose to give and not because you must
	payment

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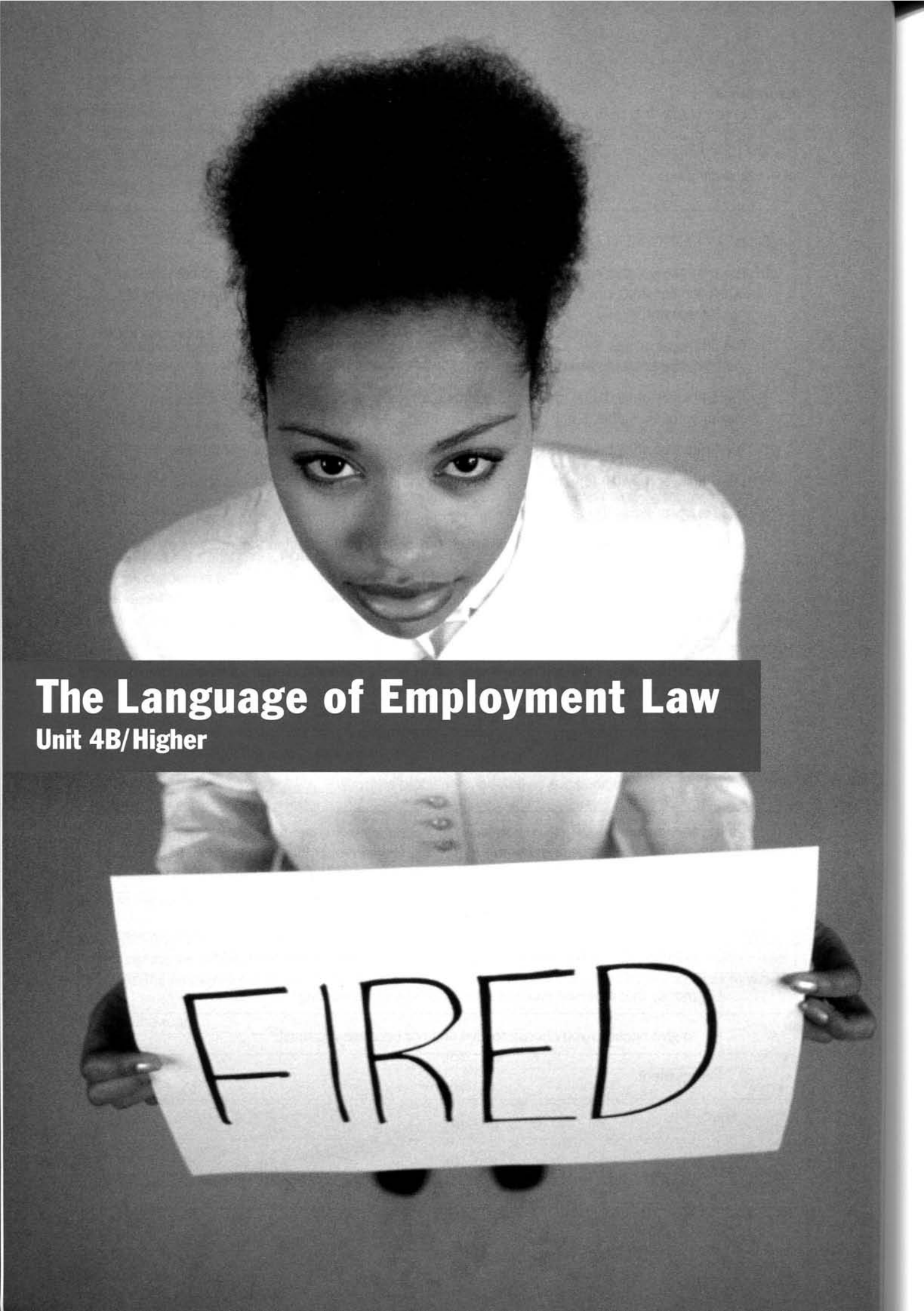

The Language of Employment Law

Unit 4B/Higher

THE LANGUAGE OF EMPLOYMENT LAW

FINDING A JOB

Exercise 1

On the next page you can see some advertisements from the jobs section of a newspaper. In the box below are some words that are used in the advertisements. Match the words in the box with the meanings provided below.

remuneration	**recruitment**	**absence**	**temporary**
training	**grievance**	**track record**	**legislation**

a The collective name given to all of the laws that have been passed by Parliament and which are enforced by the courts. The word is _____

b Something that an employee complains about to their employer. The word is _____

c Non-attendance at work. The word is _____

d Payment. The word is _____

e The process of learning the skills needed to do a particular job. The word is _____

f The opposite of permanent. For a limited period of time only. The word is _____

g A person's past behaviour and attendance that show how well he or she has done their job. The word is _____

h The process of finding employees to work for a particular organisation or company. The word is _____

Exercise 2

Find a word in the advertisements on the next page that matches the following meanings.

a To produce or create something.

The word is _____ *(from the Chatsworth and Gatford Bank advertisement)*

b A group of things that are different but are of the same general type.

The word is _____ *(from the Chatsworth United Football Club advertisement)*

c A person who has formally asked to have a particular job.

The word is _____ *(from the David Ross & Co advertisement)*

d Something that is absolutely necessary.

The word is _____ *(from the Homefast UK Estate Agency advertisement)*

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'If you want to join a winning team come and talk to us.'

THE CHATSWORTH AND GATFORD BANK

Branch manager

Competitive salary + benefits

Do you have a proven track record in financial sales? Can you motivate a team to maximise the commercial potential of your branch? You could have found the career you are looking for.

The Chatsworth and Gatford Bank is looking for a branch manager for its Gatford branch. If you have excellent management skills and are confident of your ability to generate new business opportunities we want to hear from you.

To find out more and apply, email your C.V. to Ali.Makepeace@cagb.co.uk or call 0771 652 9090.

(closing date 31 March)

David Ross & Co Solicitors Chatsworth

Legal Receptionist

Havery Road, Chatsworth
£6.80 per hour
16 hours per week
Thurs – Fri: 9am – 5pm (12 Months)

The successful applicant will have experience of client care and using a switchboard. Duties will include meeting and greeting clients, dealing with clients on the telephone and other relevant tasks as required. This is a temporary position for 12 months to cover maternity leave. This is a job-share position. You will be expected to cover holiday leave from Mon to Wed.

For an informal discussion please contact Donna McIntyre on 0771 222 0046.

Closing date 5 April.

CHATSWORTH UNITED FOOTBALL CLUB

Require a personal assistant to join us within the catering department. You will be responsible to the department manager for a wide range of duties including

- recruitment and selection of new kitchen and dining room employees
- performance and absence management of employees
- disciplinary and grievance procedures

You should be able to demonstrate an up-to-date knowledge of all of the above and be familiar with current employment legislation.

Should you wish to be considered for this position please send a C.V. and your current remuneration to **Pamela Howard, Chatsworth United Football Club, Old Highgate, Chatsworth, CH1 2SG.**

Closing date: 1 April.

Homefast UK Estate Agency

requires an

Assistant Valuer

A NEW POSITION FOR A CONFIDENT AND WELL-MOTIVATED PERSON.

This is a sales role focusing upon advising clients who are thinking of selling their home. Good knowledge of the property selling process is needed, ideally from previous experience of estate agency or property-related employment. However, training can be provided to the right person if they have no previous experience. Full driving licence essential.

Please forward C.V. to:
Brendan Ingleby
7A Station Lane
Burnside, Chatsworth CH6 7FL.

Closing date 1 April.

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Exercise 3

Read the advertisements and decide if the following statements are true or false.

a	A legal receptionist is required at David Ross & Co because the receptionist they have at the moment is going to have a baby.	**True**	**False**
b	A person needs previous experience of working as an estate agent to be considered for the job at Homefast UK Estate Agency.	**True**	**False**
c	The job at the Chatsworth and Gatford Bank offers other advantages, (maybe things like a company car or medical insurance), as well as a good salary.	**True**	**False**
d	I can apply for the job at Chatsworth United Football Club until the end of April.	**True**	**False**
e	The job at David Ross & Co is usually done by one employee from Monday to Wednesday and by a different employee from Thursday to Friday.	**True**	**False**

Exercise 4

Look at the advertisements again. Complete the following sentences with the correct preposition.

a I heard _____ Stephen Brown yesterday. He sent me a postcard. He is working in Sydney for a year.

b You can contact me _____ Chatsworth 577 9940.

c Do you have up-to-date knowledge _____ disciplinary and grievance procedures?

d Do you have any experience of dealing with people _____ the telephone?

e My contract of employment says that I have to deal with any task relevant to my job _____ required.

Collocation bank

- to have **previous** experience
- to **apply** for a job
- to **generate** new business
- to **join** a department
- to **forward** a C.V. to someone

Preposition bank

- to have a track record **in** a particular area
  'She has a strong track record **in** financial sales.'
- to be confident **of/in** something
  'I am confident **of** my ability to increase sales.'
- to work **within/in** a department of an organisation
  'A new assistant manager is needed **within** the accounts department.'
- to be familiar **with** something
  'Are you familiar **with** recent employment legislation?'
- to have experience **of** a particular job
  'I have five years' experience **of** working as a receptionist.'
- to focus **on/upon** something.
  'In this company we have a strong focus **upon** client satisfaction.'

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WORKING IN EMPLOYMENT LAW

Exercise 1

Paul Hollingsworth is a partner in the law firm Freeman Smith. He works in the employment department. Today Paul Hollingsworth is speaking to a group of trainee lawyers and giving them his opinion about working as a solicitor in employment law. Fill the gaps in the text with a word from the box below.

employers	**confidential**	**representation**	**data**
judgments	**complying**	**statutory**	**safety**
tribunal	**governed**	**legislation**	**paternity**

'It is extremely difficult to describe a typical case in employment law because there is a lot of variety. For example, the nature of the work means that you have to deal with contentious work, such as acting for a client at an employment (**a**) _____, and non-contentious work, such as drafting a contract of employment. I decided to specialise in employment law because the work is varied and interesting.

Cases are usually of a very sensitive nature and are therefore highly (**b**) _____, sometimes requiring very careful handling. I act for both employers and employees, although to be honest, it is usually an employer who is more likely to be able to afford legal (**c**) _____. However, it is an area of law, perhaps second only to family law, where a client's emotions are involved. To work in employment law you need to be able to cope with that, and to understand that clients feel very strongly about the issues concerned.

Employment law covers the rights of workers and the obligations of (**d**) _____. In the UK these rights and obligations come from the following main sources:

- Acts of Parliament, which give rise to (**e**) _____ rights and obligations
- Employment contracts, which give rise to contractual rights and obligations. This area is largely (**f**) _____ by the common law and there is a large body of law created by earlier decisions
- European Union legislation and (**g**) _____ from the European Court of Justice

I have been with this firm for 12 years and in that time I have dealt with all aspects of employment law. These include:

- drafting contracts of employment
- advising employers on (**h**) _____ with new Acts of Parliament
- health and (**i**) _____ at work issues
- advising on all aspects of discrimination at work
- advising on family related issues such as maternity and (**j**) _____ rights
- advising on pension rights
- (**k**) _____ protection
- acting on behalf of clients at employment tribunals.

It is fair to say that employment law has required an increasing number of lawyers over the last few years, largely because employees are a lot more aware of their rights than they used to be. Also, there has been a lot of new (**l**) _____, some of it from the European Union, so we have to keep employers completely up-to-date with the law. I think it's true to say that employers feel slightly under fire at the moment. By that I mean that employers feel they are being attacked by the law, while employees are protected by it. Employing people is a tricky business these days and employers must get good advice every step of the way.'

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Exercise 2

In Exercise 1, Paul Hollingsworth gave a list of different aspects of employment law that he has dealt with during his 12 years at his law firm. Match the statements below with the correct aspect of employment law mentioned by Paul.

Example statement: 'A new statute will come into force next year concerning smoking in the workplace. The purpose of this seminar is to make employers here in Chatsworth aware of their duties in this area.'

Aspect of law: advising employers on complying with new Acts of Parliament

a 'As an employee you are entitled to 52 weeks' leave after the birth of your child regardless of the number of hours you work or the length of your service with your current employer. However, you must give the correct period of notice.'

_____

b 'Your claim for unfair dismissal has been filed and your employer now has 28 days in which to respond to your allegations.'

_____

c 'The information that your company holds on its computers is an asset of the business. We can advise you on how to safeguard it; something that most companies are doing these days.'

_____

d 'Your employees will receive money from the government when they retire because they paid National Insurance contributions while they were working. However, as an employer you can help your employees by contributing to a private retirement fund for each of them.'

_____

e 'In clause 10, which deals with termination, I have stated the minimum notice period that your employees must give you if they wish to end their employment with you.'

_____

f 'It is important as employers to bear in mind that you have a duty of care to visitors to your premises as well as to your employees.'

_____

g 'Under current legislation, a woman has the right to equal pay if she does the same job as a man.'

_____

Exercise 3

Read Paul Hollingsworth's view of working as an employment lawyer in Exercise 1 again and answer the following questions using a full sentence.

a Why does Paul say that it is so difficult to describe a typical employment case?

_____

b Why did Paul choose to practise in the area of employment law?

_____

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c Why does Paul say that an employer is more likely to use his services than an employee?

_____

d Paul says that an employment lawyer needs some of the same skills as a family lawyer. Why is that?

_____

e How does Paul describe the rights of workers and obligations of employers that arise from Acts of Parliament?

_____

f How long has Paul been working for Freeman Smith?

_____

g Paul says that more employment lawyers have been needed in recent years, partly because of more legislation from Europe. What other reason does he give for the increase in the number of employment lawyers?

_____

h Who does Paul say feels unhappy about current employment law – employees or employers?

_____

m

Collocation bank

- **highly** confidential
- to **comply with** a statute or the law
- to **keep** up-to-date with the law
- to be **entitled to** leave/holiday

m

Preposition bank

- to work **in** employment law
  'Jane has worked **in** employment law for five years.'
- to cope **with** a problem
  'Solicitors in this area of law have to cope **with** some very emotional clients.'
- to advise someone **on** a particular issue
  'This morning I advised members of the local Chamber of Commerce **on** employers' duties regarding maternity leave.'
- to increase **in** number **over** a few years
  'Employment lawyers have greatly increased **in** number **over** the last few years.'
- to hold information **on** a computer
  'All of our clients' contact details are held **on** our computer.'
- to contribute **to** something
  'My employer contributes every month **to** my private pension plan.'
- to end your employment **with** a company
  'I give notice that I will end my employment **with** the Royal Chatsworth Bank on 30 April.'
- **under** legislation
  '**Under** current legislation, employers are not allowed to discriminate on the grounds of an employee's age.'

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LISTENING

Exercise 1

This morning Paul Hollingsworth of the law firm Freeman Smith, is giving a talk to a group of clients. The clients are all employers in the town of Chatsworth. Paul is going to talk about a new Act of Parliament that will affect the way in which employers advertise job vacancies. Listen carefully and write the missing words in the box on the next page.

'Good morning, ladies and gentleman. First of all, thank you very much for coming along to this breakfast seminar at Freeman Smith this morning. You are all very welcome. My name is Paul Hollingsworth and as most of you know, I'm a partner in the employment law department here at Freeman Smith.

The subject of this morning's talk is the Age Discrimination Act, a new Act of Parliament that came into (**a**) _____ a few days ago on 1 October. This new legislation will affect all of you as employers and one of the key messages that I have for you today is the importance of complying with it in order to avoid being taken to employment tribunals by unhappy employees. From now on you should be very aware of how you treat employees with regard to their age. The new regulations will have an impact on every aspect of a company's employment policies including pay and benefits, (**b**) _____, dismissal, redundancy and retirement and even training opportunities.

It might surprise you to learn that one of the most important areas for you to consider as employers is the language that you use in advertising job vacancies. When you are looking for new (**c**) _____ you have to be very aware of the words you use in any newspaper or Internet advertisement as well as in any internal memo you might write advertising a new or vacant position within the company.

To use another country's experiences as a guide for us here in the UK, our neighbours in the Republic of Ireland introduced legislation six years ago to prevent employers discriminating against employees on the grounds of age. Our research on how things have worked out in Ireland is interesting. It tells us that most claims in tribunals have been based on discriminatory advertising rather than discrimination in the workplace. In other words, too many employers are using discriminatory language in the (**d**) _____ process. So what do you need to be aware of when you advertise a job?

Well, first you should remember not to use certain words in your advert that suggest you only want people of a certain age. You might for example, face legal action from older people if you advertise for a 'young, dynamic (**e**) _____' to fill a position in your company. These words 'young' and 'dynamic' have been interpreted as automatically excluding older people. On the other hand, be careful of words such as 'senior', 'mature' or 'well-experienced' as they could be seen as excluding younger people from applying.

As well as being careful about the words that you use, you also need to be careful about making general statements in job adverts. For example, requiring that all (**f**) _____ for a particular job have a degree if it is not really necessary to do so might be seen as discriminating against older people. This is because younger people are more likely to have had the benefit of a university education.

Just to make local employers here in Chatsworth fully aware of the situation, I have with me a copy of Thursday's edition of our local newspaper, the Chatsworth Herald. As you all know, the Herald carries a jobs vacant section every Thursday. It might come as a shock to you to discover that approximately 25% of all of the adverts in the newspaper this week breach the new legislation. That means that all of these advertisers are open to claims from potential employees who might feel that they have been discriminated against on the grounds of age.

continued

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Now let's move on to employees who are (**g**) _____ working for you. A case was brought against an employer in Ireland last year by a female employee aged 61. Her name is Brenda Flanagan. Brenda worked in the accounts department of a large chemical company and there is a normal retirement age of 65 for people in her position. This particular lady did not wish to retire at 65 and intended to make a request to continue working when she received notice of her retirement. The employer arranged a (**h**) _____ training course for everyone in Brenda's department on a new software package that they are going to use. The employer told Brenda that she would not be trained because she was retiring soon and it wasn't worth spending the money on training her. Brenda took legal action against her employer immediately.

Another age-(**i**) _____ case was brought on quite different grounds. Michael, aged 55, worked in an office where most of the rest of the staff are aged 25 to 40. Everyone in the office, including the manager, often met for drinks on Friday evenings but they didn't ask Michael to join them. Michael discovered that they discussed work issues on those nights out and he felt undervalued and excluded.

In both cases above, Brenda and Michael were successful at tribunals. Both successfully argued that they had suffered from age discrimination at work. I cannot stress to you strongly enough how important it is to be aware of the new regulations and not to suffer (**j**) _____ because of compensation payments to employees.

I have prepared a fact sheet for you to collect at the end of the seminar but we will now have a question and answer session based on the new legislation.

Thank you'.

a _____	**f** _____
b _____	**g** _____
c _____	**h** _____
d _____	**i** _____
e _____	**j** _____

SOME CLAUSES FROM AN EMPLOYMENT CONTRACT

A typical employment contract will contain clauses dealing with:

- the term of the contract and the starting date
- the job title and job description
- hours of employment
- salary and expenses
- holiday entitlement
- sick pay entitlement
- discipline and grievance procedures
- non-competition
- confidentiality and data protection
- pension arrangements
- collective agreements/agreements with trade unions
- termination
- address for notices to be served
- governing law/jurisdiction

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Here are three clauses from a contract of employment. They deal with salary, expenses and termination of the contract. Look at the contract and complete the exercises that follow.

5. PAYMENT
The Company agrees that all remuneration payable (**a**) _____ this contract (**b**) _____ employment shall be paid (**c**) _____ the Employee's bank account (**d**) _____ the last Friday of each month. (**e**) _____ the event of a public holiday falling on a Friday the payment will be made on the following Monday.

6. EXPENSES
In addition to the (**a**) _____ specified above in clause 5 the Employee is entitled to be (**b**) _____ by the Employer for all costs (**c**) _____ in the performance of his/her duties in (**d**) _____ with the terms of this agreement and with the rules and practices of the Employer's business which are at the time in (**e**) _____.

7. TERMINATION
The Employer may terminate this agreement without any period of notice or payment if the Employee at any time:

7.1 is guilty of serious **misconduct** or **neglect** or any other conduct **in respect of** the Employee's employment or personal life which may seriously **adversely** affect the interests of the Employer

7.2 is **convicted** of a criminal offence **other than** an offence under road traffic legislation in the UK or abroad for which a penalty other than a term of imprisonment is **imposed**

7.3 becomes the **subject** of a bankruptcy order

7.4 is diagnosed as mentally ill or becomes a patient for the purposes of the Mental Health Act 1983

7.5 is guilty of any material breach of the **provisions** of this agreement or any neglect in carrying out his or her duties under the terms of this agreement.

Such termination will be **without prejudice to** any other rights of the Employer against the Employee.

Exercise 1

Look at clause 5 of the employment contract above. It deals with payment of the employee. Complete the clause by using one of the prepositions in the box below.

into	of	under	In	on

Exercise 2

Look at clause 6 of the employment contract above. It deals with expenses that the employer must pay back to the employee. Complete the clause by using one of the words in the box below.

reimbursed	accordance	remuneration	incurred	force

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Exercise 3

Look at clause 7 of the employment contract. It deals with the circumstances in which the employer can terminate the contract without giving any warning to the employee. Match the words that are highlighted in the clause with the meanings below.

a The terms and conditions contained in a contract. Answer: _____

b A failure to do something when it is your duty to do it. Answer: _____

c Except, with the exception of. Answer: _____

d Negatively, badly. Answer: _____

e Bad or dishonest behaviour. Answer: _____

f Forced upon you. You have no choice about it. Answer: _____

g Having no effect on something. Answer: _____

h Regarding or concerning. Answer: _____

i To be found guilty of a criminal act. Answer: _____

j In this context, it means the person that something happens to. Answer: _____

Exercise 4

Read the three clauses again and decide if the following statements are true or false.

a	The employee must collect his or her pay from the company office on the last Friday of each month.	**True**	**False**
b	If New Year's Day is on a Friday the employee will be paid on the following Monday.	**True**	**False**
c	If the employee makes a negative statement about the company's products when he is at a party with his friends he could possibly be dismissed.	**True**	**False**
d	If the employee is stopped by the police for driving too fast and she receives a fine of £200 she could possibly be dismissed.	**True**	**False**
e	If the employee cannot pay his debts and a court has issued an order to say that he is insolvent he can be dismissed immediately.	**True**	**False**

Collocation bank

- to **incur** a cost or an expense
- to be **convicted** of a crime
- a **material** breach
- to **adversely** affect something
- to **impose** a penalty on someone

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m

Preposition bank

- to be reimbursed **by** someone
  'I was reimbursed **by** my employer for my train fare to London.'
- **in** respect **of** something
  'My employer wrote to me last week **in** respect **of** my redundancy payment.'
- **under** the terms of an agreement
  '**Under** the terms of your contract you are entitled to five weeks' holiday.'
- to be **in** force
  'There are rules **in** force as to where employees are allowed to smoke cigarettes at work.'
- to be the subject **of** something
  'I was the subject **of** an investigation into a breach of confidentiality when I worked for the government.'

AN EMPLOYMENT TRIBUNAL

Employment cases in the UK are heard in Employment Tribunal Offices. An employment tribunal is not as formal as a court but it must follow the correct rules of procedure in the same way as a normal court. Employment tribunals have the power to make decisions but there is a period where the parties are encouraged to reach an agreement before a case is heard. On the next page you can see a diagram summarising the process of making a claim at an employment tribunal.

Exercise 1

The diagram on the next page uses some important collocations to describe the process of making a claim at an employment tribunal. Using the diagram to help you, complete the sentences below using a verb or a phrasal verb.

a First of all a dispute _____.

b The parties should then try to _____ the dispute.

c If the parties cannot agree then the claimant should _____ advice from a professional.

d The tribunal will _____ the claim if it is presented on the correct form.

e The tribunal will then _____ a hearing to examine the facts of the case.

f The tribunal will finally _____ a judgment.

Exercise 2

The diagram contains some formal words and phrases. Find the words or phrases in the diagram that match the meanings provide below.

a A process in which the two parties to a dispute are brought together in order to try to find a solution. Mediation is an example of this. _____

b The formal answer to a claim. _____

c An order issued by the court which says that the claimant has won the case because the respondent failed to file a response to the claim. _____

d The process in which the parties to the dispute agree on the conduct of the case, for example agreeing whether expert evidence is needed, what documents must be disclosed to each side and the time allowed for this, etc. _____

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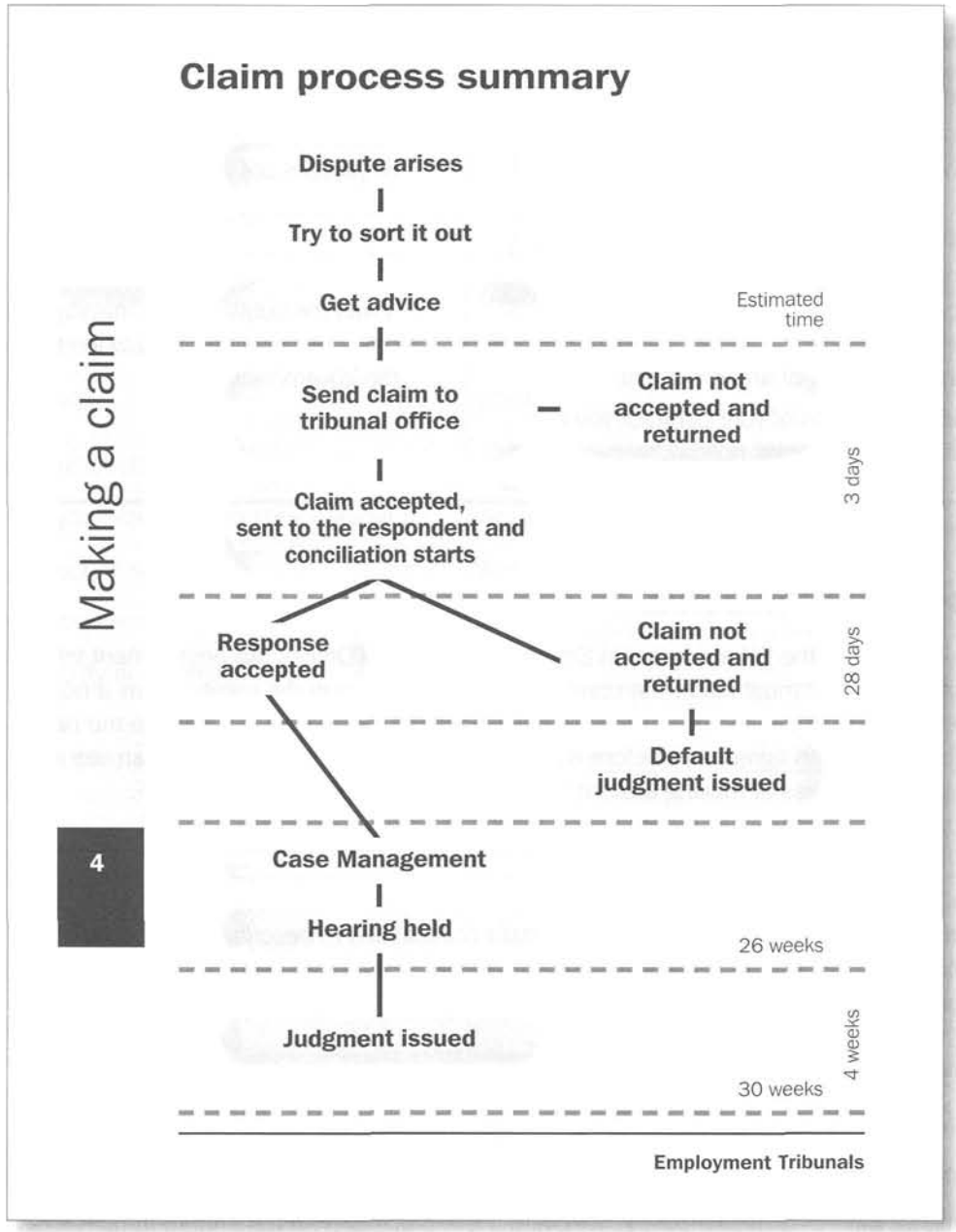

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Exercise 3

Look at the diagram again and say whether the following statements are true or false.

a	The first thing an employee who is in dispute with his or her employer should do is file a claim with an employment tribunal.	**True**	**False**
b	The 'defendant' is known as a 'respondent' in a case at an employment tribunal.	**True**	**False**
c	The respondent has just three days to respond to the claim.	**True**	**False**
d	If the respondent does not respond to the claim then the tribunal can rule in favour of the claimant without a hearing.	**True**	**False**
e	The entire process takes about 30 weeks from start to finish.	**True**	**False**

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Exercise 4

Maggie Redman is an employee of a business in Chatsworth. She is involved in a serious dispute with her employer. Maggie has some questions about employment tribunals. Complete her questions with a word from the box below.

with	How	do	When	Can

a What exactly do employment tribunals _____?

b Where can I find a full list of the categories of complaints that employment tribunals deal _____?

c _____ the staff at an employment tribunal office give me legal advice?

d _____ long does the tribunal office give my employer to respond to my initial letter of complaint before I can bring a claim?

e I understand that I have three months in which to make a complaint about my employer. _____ does the three-month period begin?

Exercise 5

On the next page is a leaflet that Maggie Redman has picked up from her local tribunal office in Chatsworth. The information needed to answer Maggie's questions from Exercise 4 is contained in the leaflet. Answer Maggie's questions using a full sentence. Each sentence has been started for you.

a An employment tribunal _____

_____

b You can find _____

_____

c The staff at _____

_____

d The tribunal office _____

_____

e The three-month period _____

_____

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What does the Chatsworth Employment Tribunal do?

Employment tribunals hear cases and make decisions on matters connected with employment. Employment matters include cases in the areas of discrimination at work, unfair dismissal, breaches of health and safety regulations and a range of claims dealing with payments relating to wages and redundancy.

If you want a full list of the complaints that employment tribunals deal with, you can collect a full jurisdiction list from the Chatsworth Tribunal Office or download the list from our website.

Further information

The staff at this tribunal office can answer general enquiries and give you information about how the tribunal system works. **They cannot give you legal advice** or advise you as to whether your claim will be successful. If you need help with your claim you can contact a solicitor, or seek help from your trade union if you are a member.

Information needed to make a claim

Your claim must meet certain conditions before it can be accepted. It must be submitted to the tribunal on the correct form provided by an employment tribunal office. You must tell us:

- your name and address
- the name and address of the respondent that you are making a claim against
- the details of your complaint.

Please note that before making a claim you should write to the respondent and give details of your complaint. You should then allow the respondent 28 days to reply before bringing your claim to a tribunal office.

How much time do I have to make a claim?

In most cases you have three months to make your claim. **This time limit is very strict and if you wait longer than three months the tribunal may not be able to deal with your claim**. The three months begins with the date your employment ended or when the event that you are complaining about took place. In exceptional circumstances more time may be given. For example, if you were in hospital at the time that your claim should have been made.

Where to send your claim

You can send your claim to the Chatsworth Tribunal Office or you can complete the online version on our website.

Exercise 6

Look at the leaflet again. In each of the examples below, tick the box which uses the correct collocation.

(*)	☐	listen to a case	✓	hear a case
a	☐	employment matters	☐	employment affairs
b	☐	unjust dismissal	☐	unfair dismissal
c	☐	seek help	☐	search for help
d	☐	bring a claim	☐	do a claim
e	☐	draft a claim form	☐	complete a claim form

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AN EMPLOYMENT CLAIM

Exercise 1

If you want to make a claim at an employment tribunal you must check that the nature of your claim is covered by the tribunal's jurisdiction list. On the next page you will see ten types of claim that are covered by the jurisdiction list. Look at the employees' complaints below. Match each employee with the correct type of complaint.

Anna Kingston 'I am a machine operator in a factory in Chatsworth. I have worked here for two years. I have just discovered that a man who works here is paid £2 an hour more than I am for doing exactly the same job as me.'

David Cainley 'I work in the office of a publishing company. I had to attend a disciplinary meeting last month because I was accused of using the Internet to look at football websites during paid working hours. I was dismissed at the end of that meeting. I was extremely angry because my employer refused to allow my trade union representative to attend the disciplinary meeting with me.'

Arthur Bentley 'I am 55 years old. I work for a travel agency. Last month our manager resigned and the job of branch manager became available. Despite the fact that I have 20 years' experience of this type of work, a younger man in my office was promoted over me. The area manager actually told me afterwards that although they were impressed by me at my interview they thought that I was too old to handle the new technology that the company were planning to introduce over the next few years. I feel that this is extremely unfair.'

Simon Cole 'I am 45 years old. I applied for a job working in a petrol station in Chatsworth. The job advertisement said applicants should be 'young and dynamic'. I was not selected for interview, despite lots of previous experience of doing similar jobs. I believe the employer only wanted people who were younger than me.'

Brian Hedley 'I am 19 years old. I work for a sole trader who runs a gardening business. Last month I decided to take out a loan and the bank asked for my last three months' pay slips. My employer pays me in cash at the end of every day and refuses to give me pay slips. Without proof that I earn money I can't get a loan.'

Jack Walsh 'I am 23 years old. I do seasonal work for a local fruit grower near Chatsworth and I pick fruit for eight hours every day. The law says that my employer must pay me at least £5.35 an hour but my employer only pays £3 an hour.'

Deborah Clark 'I worked in the office at a local brewery. My employer needed to reduce the number of administrative staff last month because there wasn't enough work for everyone. Two of us in the office, my colleague Jane and I, have young children and we only work 20 hours a week in comparison to the other employees who work 37 hours a week. The boss made Jane and I redundant, although we had actually been there longer than some other employees.'

Alex Harmon 'I am 41 years old and I have worked for all of my working life in a factory that produces furniture. The factory is due to close in two months and we will all be made redundant. It is really difficult to get a new job at my age but to make matters worse my employer refused to let me have a morning off to go for an interview.'

Dan Beale 'I work for an advertising agency based here in Chatsworth. My employment contract clearly states that I will be paid on 26th of each month but my employer always pays me later than that. I have had a few financial troubles as a result.'

Maggie Redman 'I used to work as a manager of a restaurant business until I resigned last July. I didn't want to resign but when my employers found out that I was expecting a baby they treated me very badly and I didn't feel that I could stay.'

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Jurisdiction list

a You have suffered a detriment or have been dismissed as a result of your employer's refusal to allow you to be accompanied at a disciplinary/grievance hearing.

Employee name: _____

b You have a complaint based upon breach of contract.

Employee name: _____

c You have a complaint based upon a discriminatory advertisement.

Employee name: _____

d You have suffered discrimination in the workplace on the grounds of age.

Employee name: _____

e Your employer has failed to provide equal pay for equal work.

Employee name: _____

f Your employer has failed to allow time off to seek work during a redundancy situation.

Employee name: _____

g Your employer has failed to provide a written pay statement.

Employee name: _____

h You have suffered a detriment or have been dismissed on the grounds of pregnancy.

Employee name: _____

i You have suffered a detriment or have been dismissed as a result of your employer's failure to pay the minimum wage.

Employee name: _____

j You have suffered less favourable treatment or have been dismissed as a result of being a part-time employee rather than a full-time employee.

Employee name: _____

Collocation bank

- **unfair** dismissal
- to **meet** certain conditions
- to **attend** a meeting
- to **seek** help
- a **strict** time limit
- to be **made** redundant

Preposition bank

- to be promoted **over** someone
  'Sandra has worked here for seven years now and three people have been promoted **over** her.'
- to have time **off** work
  'I had a lot of time **off** work last year due to family problems.'
- **in** comparison **to/with** something/someone
  'We are paid well in this country **in** comparison **to/with** workers who make cars in other countries.'
- to be paid **in** cash
  'Many illegal workers are paid **in** cash.'

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Exercise 2

Read the newspaper story on the next page. It is a story about a hearing at an employment tribunal. Fill the gaps in the text with a word from the box below.

suspended	**resigned**	**dismissal**	**hearing**	**admitted**
earnings	**awarded**	**alleged**	**manager**	**distressed**

Exercise 3

Read the newspaper story again and answer the following questions using a full sentence.

a What was Maggie Redman's job at Casa?

_____

b What was Maggie Redman's yearly salary at Casa?

_____

c Who were the owners of Casa?

_____

d How long had Maggie Redman been working at Casa when she discovered she was going to have a baby?

_____

e Was Michael Roeder sympathetic towards Maggie Redman when she told him that she was pregnant?

_____

f What reason did Maggie Redman give for being unable to work efficiently after her conversation with Michael Roeder?

_____

g When Maggie Redman returned to work, how did Mr and Mrs Roeder financially punish her for alleged offences such as making late payments to suppliers?

_____

h Was Maggie Redman fired from her job at Casa?

_____

i What were Maggie Redman's grounds for bringing a case against her employers?

_____

j What did the tribunal award to Maggie Redman when it upheld her complaints?

_____

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The Chatsworth Herald www.chatsworthherald.co.uk *page 12*

Tribunal rules in favour of manager suspended from top restaurant

Woman asked to choose between her baby and her job wins £60,000 for constructive dismissal

A Chatsworth woman who was asked by her employers to choose between her unborn baby and her job was (**a**) _____ £60,000 in damages at a tribunal today.

Maggie Redman, aged 29, originally from Manchester, had worked as (**b**) _____ at the fashionable restaurant 'Casa' in Beaumont Street, Chatsworth for just two months when she informed her employers, restaurant owners Michael and Sarah Roeder that she was going to have a baby. She was initially (**c**) _____ from her £30,000-a-year post, but returned to the restaurant to resume work last May, the tribunal was told. Miss Redman claimed she was then forced out by a campaign of harassment.

Miss Redman told the tribunal that she had informed her employer Sarah Roeder as soon as she knew that she was expecting a baby. Miss Redman described Mrs Roeder's response to her news as 'brutal'. Sarah Roeder yesterday (**d**) _____ to saying, 'If you keep this baby, I don't think we can keep you. We have put everything we have into this business and we have to prioritise it above everything else'. According to Miss Redman, who is unmarried, Michael Roeder approached her later on the same morning and asked her how strong her relationship was with Glenn Taylor, the father of her child. Miss Redman told the tribunal, 'Michael was furious when he heard my news. He asked me deeply personal questions about my relationship with my partner and encouraged me not to continue with my pregnancy. I was shocked beyond belief by his attitude and was too (**e**) _____ by the conversation to work efficiently for the rest of the day. Michael's response to my distraught condition was to suspend me on the spot. I had no choice except to go home. I left work that day at 11am'.

Although Mr and Mrs Roeder suspended Miss Redman from her post that day, she later returned to work. She eventually (**f**) _____ last July after being given what she termed 'an inaccurate, negative work appraisal that portrayed me as a liar and an opportunist'. During the three-day tribunal (**g**) _____, Miss Redman told of being verbally abused by the Roeders and of having her salary docked for (**h**) _____ offences that she had not committed, such as failing to file important invoices and making late payments to suppliers.

After today's judgment, Miss Redman told the Chatsworth Herald , 'The Roeders made my life a misery when I worked for them and for many months after. They suggested to me and to other staff that I came to work at Casa with a deliberate plan to take a highly-paid post and then have a baby immediately to take advantage of statutory maternity rights. Nothing could be further from the truth'.

At the tribunal Miss Redman alleged constructive and unfair (**i**) _____ as well as sexual discrimination. Her claims were upheld, resulting in damages of £60,000 for harassment, sexual discrimination and lost (**j**) _____. As a result, the Roeders, who have since sold Casa, now face financial ruin. They were not available for comment after the tribunal today.

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USING YOUR KNOWLEDGE

Collocation review

Complete these sentences with a collocation that you have seen.

a Please do not disclose this information to anyone, as it is _____ confidential.

b If you _____ any expenses on your training course in London the company will reimburse you upon your return.

c Do you have any _____ experience of working in a bank? We are ideally looking for someone who won't need very much training.

d I have _____ for a job with a major law firm but I'm not sure that I will be selected for interview, as there is sure to be a lot of competition.

e It is vital to _____ up-to-date with changes in employment law because employers have to comply with many duties and obligations.

f Employees have been _____ affected by the bad economic situation that we have at the moment and many people have lost their jobs as a result.

g The employee's dishonest behaviour amounted to a _____ breach of his employment contract and he was dismissed immediately.

h If you have been _____ of a serious criminal offence in the past you are not eligible for a job in the police force.

i I have _____ to a pension fund for 30 years and I hope I will have enough in it to be able to retire at the age of 50.

j The European Union _____ penalties upon member countries that breach its employment legislation.

Vocabulary review

Complete these sentences with a word that you have seen.

a The successful _____ for this challenging post will have experience of financial sales and be a good leader of staff.

b Mothers of new babies are entitled to 52 weeks' maternity _____ according to current legislation.

c The _____ clause of this contract explains the circumstances in which the employer can bring the contract to an end without notice to the employee.

d She was fired from her job without good reason and she is bringing a claim against her employer for unfair _____.

e Employers are not allowed to _____ against employees on the grounds of age, sex or religion.

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f If you are ill and you are away from work your employer is obliged to pay you _____ pay for a certain number of weeks.

g In the UK, special courts known as _____ deal with employment cases.

h Employers are obliged to give _____ pay to men and women if they are doing the same job.

i The work of an employment lawyer that does not involve any kind of dispute is known as non-_____ work.

j There is a lot of health and _____ legislation these days, which is designed to keep employees safe from harm when they are at work.

Preposition review

Complete these sentences with the correct preposition.

a Are you familiar _____ the latest European Union legislation on sexual discrimination?

b We hold all of our confidential information _____ a computer at our head office.

c I was reimbursed _____ the company accountant for all of the expenses that I incurred in the month of July.

d I give notice that I will end my employment _____ Harrods on 23 April of this year.

e The Employee's salary will be paid directly _____ his or her bank account on the last day of each month.

f _____ the terms of his employment contract he must give four weeks' notice if he wants to terminate his employment.

g Employment tribunals hear cases relating _____ a wide range of complaints.

h I wish to make a claim _____ my employer on the grounds of breach of contract.

i I am very angry because I thought I would be made a manager at my company this year but a younger man was promoted _____ me.

j I was not able to go to an interview for a new job because it was at two o'clock and my current employer refused to give me the afternoon _____.

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TOLES HIGHER EXAM PRACTICE

Exercise 1

Read the contract clause below. The missing prepositions are in the list below. For each gap choose the preposition which best fits into the space from the options provided. Use each option only once. Write your answers in the box below. There is an example at the beginning (*).

FROM A CONTRACT OF EMPLOYMENT

7. HOLIDAYS

The Company and the Employee agree as follows:

7.1 All of the Employee's holiday dates shall be agreed with the human resources department of the Company a minimum (*) _____ six weeks (**1**) _____ advance of holiday being taken.

7.2 The Company shall be entitled to require the Employee to work any public holiday including Christmas Day if any such holiday falls (**2**) _____ a day on which the Employee would normally be required to work.

7.3 In the event that the Employee leaves the Company he or she shall be entitled to pay in lieu (**3**) _____ any holiday entitlement that may have accumulated.

7.4 In the event that the Employee leaves the Company and he or she has received paid holiday in excess of holiday entitlement the Company is entitled to deduct any overpayment (**4**) _____ any other sums due (**5**) _____ the Employee from the Company.

(AA) of **(A) upon** **(B) from** **(C) in** **(D) of** **(E) to**

(*) AA	(1)	(2)	(3)	(4)	(5)

Listening

Exercise 2

Listen to this conversation between a lawyer and his client. Decide if the following statements are true or false.

1 Mr Winter had already filed a claim against his former employer before his visit to the lawyer.

2 Mr Winter was employed as an office worker in Birmingham.

3 Mr Winter was dismissed two weeks ago.

4 Mr Winter was injured by a woman when he tried to stop her fighting with her husband.

5 Mr Winter has now completely recovered from the injury he sustained to his ear.

6 Mr Winter suffered no broken bones in the attack upon him.

7 Mr Winter's supervisor was very sympathetic about his medical problems.

8 Mr Winter's supervisor telephoned him to say she intended to file a defence to his claim.

9 Mr Winter has only worked for six weeks since the attack upon him.

10 The lawyer thinks that Mr Winter's claim will be unsuccessful.

True or false?

(1)	(2)	(3)	(4)	(5)
(6)	(7)	(8)	(9)	(10)

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Exercise 3

Look at the letter below. A lawyer has written it on behalf of his client. Parts of the letter are written in an inappropriate way. They are underlined. Rewrite the underlined words in a more appropriate way. There is an example at the beginning (*).

McKay, Browne & Co
11 Cardogan Square
Liverpool
L1 3BQ

17 July 20XX

Mr Fergus Keane
General Manager
Carlton Engineering
Unit 33, Broome Industrial Park
Liverpool
L23 5CH

Dear (*) Fergus Keane Esquire

Our client: Neil Hoffmann

I (**1**) write about your letter of 14 July 20XX, sent to Mr Neil Hoffman at his home address, 44 Willow Gardens, Merton, Liverpool. Mr Hoffman has (**2**) talked to McKay, Browne & Co and I will be representing him (**3**) about this problem.

I am instructed by Mr Hoffmann that (**4**) opposite to what you now claim, he was not informed at any stage of the company's official (**5**) process to complain, nor was he offered an interview at your head office on the afternoon of Monday 2 July.

Mr Hoffmann insists that he was involved in a heated argument with his supervisor Mr Kevin Radcliffe, on the morning of 2 July and was subsequently asked to leave the company's (**6**) buildings by you in your capacity as General Manager. Mr Hoffmann then received notification that his employment contract had been terminated without notice on the grounds of his (**7**) terrible behaviour by a letter dated 3 July.

My client insists that the (**8**) argument he had with Mr Radcliffe on 2 July was one of several similar incidents and that his repeated attempts to speak to someone in authority in order to make a formal complaint were not taken seriously.

I have advised my client that he has excellent grounds to make a claim against Carlton Engineering for (**9**) unjust firing. I have instructions to issue proceedings against you if we do not receive reasonable proposals for settlement of this matter within (**10**) two weeks after the date written on this letter.

Yours sincerely

Brendan Lambton
Partner

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(*) Mr Keane

(1)

(2)

(3)

(4)

(5)

(6)

(7)

(8)

(9)

(10)

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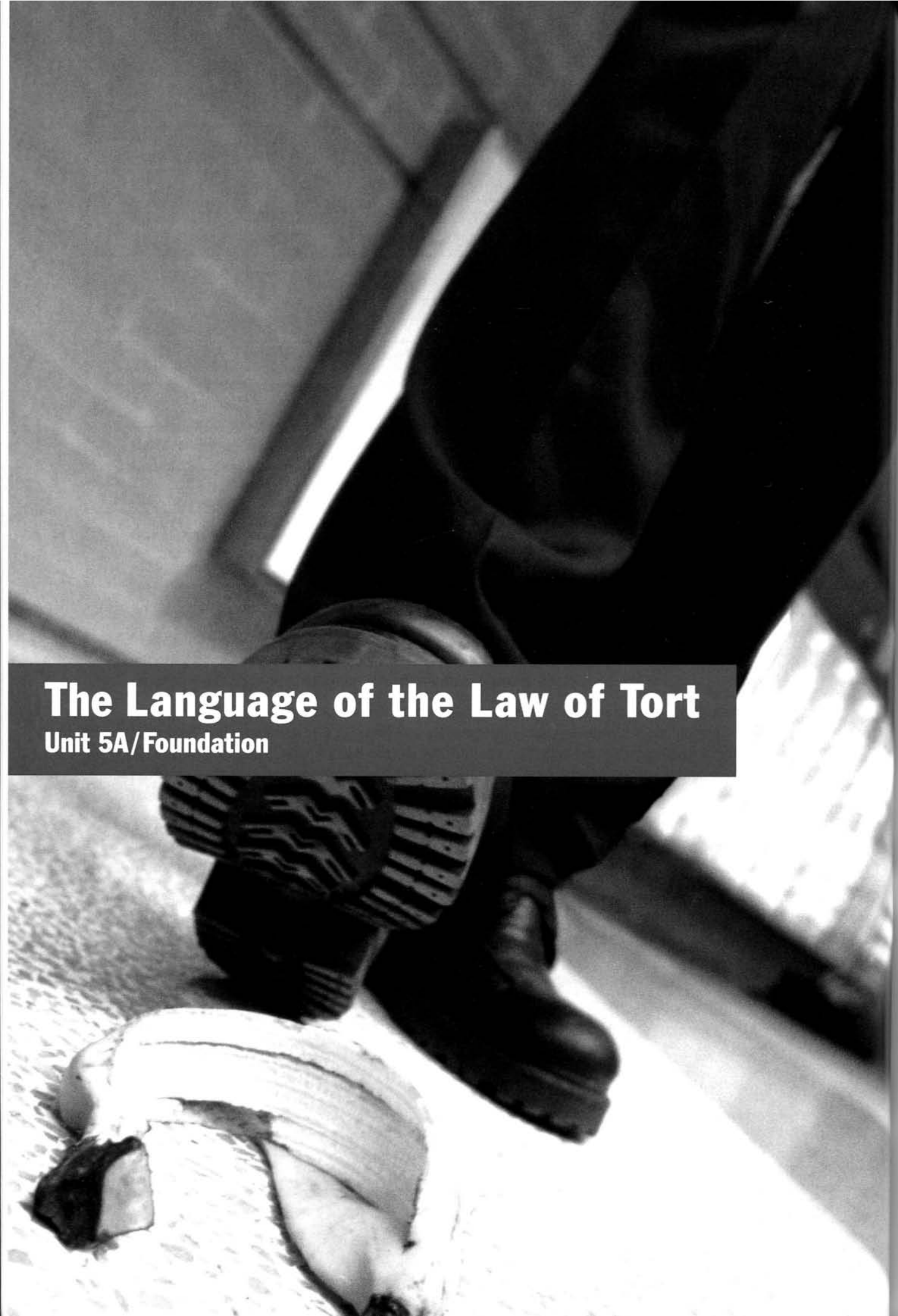

The Language of the Law of Tort

Unit 5A/Foundation

THE LAW OF TORT

WHAT IS THE LAW OF TORT?

Exercise 1

Read this information about the law of tort. The most important words are in the key vocabulary below. Decide if the statements that follow are true or false.

Key vocabulary

- **wrong**
- **harm**
- **damage**
- **liable**
- **compensate**
- **intention**
- **negligence**
- **conduct**

The law of tort deals with civil wrongs. A ***wrong*** is something that causes **harm** or **damage** to another person. The words 'harm' and 'damage' have the same meaning. A person who suffers harm or damage is hurt in some way. This hurt might be physical in nature, but it might be some other type of hurt, such as causing someone to lose money. This area of law is based on the following principle. In situations where I cause harm to another person, I may be **liable** to **compensate** him or her for that harm, even in situations when:

- I do not have a contract with that person and
- I did not commit a criminal act against that person.

Let's say that I am shopping in a large supermarket and an employee of the supermarket washed the floor five minutes ago. The floor is not completely dry. I do not know this. There is no sign to warn me that the floor is wet. I slip on the floor and hurt my back. I have to go to hospital and I cannot go to work for a month. This is a situation where I need to make a claim based on the principles of the law of tort. I am hurt physically and I have perhaps lost money, all because of someone else's conduct. **Conduct** is a more formal word that means behaviour.

The law of tort says that I must not harm another person either because I *choose* to harm him or her, or because I was *not careful* enough. In other words, I am liable for any harm that I cause to another person either from having ***intention*** to cause harm, or from **negligence**.

How is this area of law different from criminal law or contract law? The answer to this question is that there is a lot of overlap between the law of tort, contract law and criminal law. Overlap means that these areas of law include some things that are the same. However, an important difference between the law of tort and criminal law is that the main purpose of the law of tort is to compensate people who suffer harm and not to punish the people who caused this harm. An important difference between the law of tort and contract law is that the law of tort makes us liable to people with whom we have no previous relationship.

a	The law of tort aims to compensate people for different types of harm and not just physical harm.	**True**	**False**
b	I must have a contract with someone to make a claim against that person under the law of tort.	**True**	**False**
c	I can only make a claim against someone under the law of tort if that person hurt me intentionally.	**True**	**False**
d	The main purpose of the law of tort is to punish people who cause harm to others.	**True**	**False**
e	I can be liable for my actions under the law of tort to someone who was a complete stranger to me before my conduct hurt that person.	**True**	**False**

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Help desk

What do these words mean?

a principle of law – an established idea that is used as the basis for a particular area of law.

to slip – to fall because of stepping in something that is wet or icy.

Exercise 2

Use the correct words from the key vocabulary in Exercise 1 to complete the following sentences.

a The main idea of the law of tort is not to punish people who do something wrong but to _____ people who suffer because of someone else's conduct.

b I am _____ for the harm that I cause to other people, which means that I have legal responsibility for causing that harm.

c In situations when I deliberately harm another person, I have _____ to harm that person.

d In situations when I harm another person because I was not careful enough, the law says that the person can make a claim against me based upon my _____.

e The word '_____' means the same as the word 'harm'. The word 'damages', however, is not the plural of this word. Damages means financial compensation for harm or damage suffered.

Exercise 3

Read this short text that gives you more information about the law of tort. Answer the questions that follow using a full sentence.

Conduct that causes harm to another person is referred to as a tort. We can describe a person's conduct by saying that he or she is guilty of a civil wrong. We can also say that he or she has committed a tort. Several different types of tort exist in English law. Lawyers refer to the different types of tort as categories of tort or as the heads of tort. If someone harms me I can bring an action in tort. This means that I can sue that person on the grounds that I have suffered harm. If I am successful in this action, I will receive a remedy from him or her. A remedy is something that compensates me for my loss or that stops the harm from happening again. The usual remedy for a tort is damages. The person who is guilty of harming another person is referred to as a tortfeasor.

a What is a tort?

Answer: _____

b What are the heads of tort?

Answer: _____

c What does to 'bring an action in tort' mean?

Answer: _____

d What is a remedy?

Answer: _____

e What is the usual remedy for a tort?

Answer: _____

f What name do lawyers give to the person who commits a tort?

Answer: _____

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TYPES OF TORT

Exercise 1

Read this information about the different types of tort that exist in English law. In each case, decide which is the correct preposition from the two possibilities. Write your answers in the spaces below.

There are several heads (*) **of/to** tort in English law. The most important heads are:

- Negligence
- Trespass to land
- Nuisance
- Trespass to the person
- Defamation

We will look at the nature of these torts in Exercises 3 and 4 below. To 'trespass' is a general word that means to interfere (**a**) **to/with** something or someone, or to do something that causes harm.

If I want to bring an action (**b**) **against/to** a tortfeasor, that person's conduct must usually fit (**c**) **on/into** one of the heads. However, some areas of tort are constantly developing. As society changes, the conduct that we regard (**d**) **to/as** unacceptable or harmful changes too.

Lawyers usually divide the heads (**e**) **into/to** two categories. These are torts that cause harm to people and torts that cause harm to land.

Answers

Example (*) of

a _____ **b** _____ **c** _____ **d** _____ **e** _____

Exercise 2

Read Exercise 1 again and answer the following questions using a full sentence.

a What does the verb to 'trespass' mean?

Answer: _____

b What are the two types of trespass?

Answer: _____

c Does the law of tort always stay exactly the same?

Answer: _____

d What two categories do lawyers usually divide the heads of tort into?

Answer: _____

Exercise 3

Read this information about the heads of tort that involve causing harm to people. The most important words are in the key vocabulary below. Complete the sentences that follow with the correct word from the key vocabulary.

Key vocabulary

- **assault**
- **battery**
- **defamation**
- **libel**
- **false imprisonment**
- **slander**
- **negligence**
- **duty of care**
- **trespass to the person**

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There are three main torts that cause harm to people.

- **Trespass to the person** means to harm someone in a physical way. To make someone afraid that I will physically hurt them is the tort of **assault**. To actually hurt someone in a physical way is the tort of **battery**. To keep someone in a certain place without that person's permission is the tort of **false imprisonment**. All of these torts are known as trespass to the person.
- **Defamation** occurs when someone makes a negative statement about another person which harms that person's reputation. In other words, it means saying or writing something negative about someone, so that other people think in a more negative way about that person.

Defamation comes in two forms. The tort of **libel** is publishing the statement in a permanent form, for example, writing it in a book. The tort of **slander** refers to a statement in a form that is not permanent, for example, saying something in ordinary conversation.

- **Negligence** occurs when you cause harm to another person because you were not careful enough. The law of tort says that in situations where you can anticipate that your conduct is likely to cause harm to another person then you have a duty to be careful. Lawyers refer to this duty as the **duty of care**. Negligence is the most common ground for claimants bringing an action in tort.

a Julia runs a café in the town centre. Last week one of Julia's customers burnt his hand when he touched a very hot plate. Julia did not warn the customer that the plate was hot. He claims that Julia was not careful enough and that he will sue Julia on the grounds of _____.

b Julia's solicitor explained to her that as the owner of a café she has a _____ to all of her customers. This means that she has a duty to make sure that her customers do not suffer any harm in her café.

c Mary was shopping in a large department store last week. A shop assistant says that she saw Mary take a necklace from the shop without paying. The manager of the shop kept Mary in an office for 45 minutes until the police arrived. The manager did not allow Mary to leave. The police discovered that Mary paid for the necklace. Mary sued the store on the grounds of _____.

d Gary was playing football on Saturday. Gary shouted at his friend named Bill on the other football team. He shouted, 'I am going to kill you!' This is not the tort of _____, as Bill did not really believe that Gary intended to cause him physical harm in this situation.

e Last year Paul was successful when he sued the police on the grounds of _____. Paul was taking part in a political demonstration when a policeman kicked him and pushed him for no reason.

f The head of tort that includes false imprisonment, assault and battery is _____.

g The head of tort that includes libel and slander is _____.

h David Boyle was at a party last night. David could not find his wallet, which contained £200. David accused George Lee of stealing his wallet. David said that George was 'a typical thief', and everyone at the party heard this. David later found his wallet, which he had left at home. George might sue David on the grounds of _____.

i The actress Crystal Benn is suing a major newspaper on the grounds of _____. The newspaper published a story that said Crystal takes illegal drugs and the story was not true.

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Exercise 4

Read this information about torts that cause harm to land. Fill the gaps in the text with the correct words from the box below.

objects	**committed**	**permission**	**grounds**
Claimants	**enjoy**	**factory**	**walking**

There are two main torts that cause harm to land.

- **Trespass to land** means to go onto someone's land without that person's (**a**) _____. This might mean (**b**) _____ on the land or it might mean staying there permanently. Trespass to land also includes placing (**c**) _____ on another person's land without that person's permission.
- **Nuisance** means to interfere with a person's enjoyment of his or her own land. This means that every individual has a right to (**d**) _____ being in his or her own home or on his or her own land without anyone spoiling that experience. (**e**) _____ who might not be successful in an action for trespass to land often use this tort as a basis for legal action. Let's say I have some beautiful trees in my garden. Near my house is a small (**f**) _____ involved in a manufacturing activity that uses strong chemicals. These chemicals smell very bad, but in addition to this, the fumes from the chemicals kill the trees in my garden. The factory owner has not (**g**) _____ the tort of trespass to land. However, his conduct might give me the right to take action against him on the (**h**) _____ of nuisance.

THE DUTY OF CARE

Exercise 1

Read this information about the duty of care in the tort of negligence. The most important words are in the key vocabulary below. Complete the sentences that follow by matching the first half of each sentence with the correct ending.

Key vocabulary

negligence	**acts**	**omit**	**objective**
duty of care	**omissions**	**foreseeable**	**subjective**

In the UK and the USA most cases in tort are based upon the tort of **negligence**. In order to bring a successful claim against someone for negligence, the claimant must prove that the defendant was in breach of his or her **duty of care**. The duty of care is the duty to make sure that my conduct does not harm anyone.

However, the law is a little more complicated than this. The law of tort says, for example, that I am liable for

- the things that I do, and also
- the things that I *don't* do.

In other words, I can be liable for harming another person because of my actions and I can also be liable because I fail to do something that a reasonable person would do under the circumstances. A lawyer will say that I am liable for my **acts** and also for my **omissions**. Omissions are the things that I do not do. For example, when doctors give patients medicine to treat an illness, and that medicine is dangerous if people drink alcohol at the same time, the doctors must warn their patients. If the doctors do not warn the patients, then the doctors **omit** to tell the patients something important and that omission can cause harm to the patients. Both statute and the common law contain rules about the situations in which people are liable for their acts and their omissions.

Do I have a duty of care to everyone under all circumstances? The answer to this is 'no'. It is an established common law principle that I am only liable in certain situations. The main limit upon my

continued

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liability to others is that the harm that I cause to another person must be 'reasonably **foreseeable**'. Foreseeable means that the results of my conduct are predictable. For example, a gas company is doing some work in the street. The men doing the work dig a deep hole. The men then go home at the end of the day. They do not put a sign anywhere to warn people that the hole is there and they do not provide a light. A man falls into the hole at night-time and breaks his leg. Was the result of the gas company's omission reasonably foreseeable? The answer to this is 'yes'. A reasonable person can anticipate the results of conduct such as this.

How do we know if something is reasonably foreseeable? The test is **objective** and not **subjective**. It does not really matter what the defendant says that he or she was thinking at the time of the harmful conduct. The common law provides many principles that come from hundreds of cases about what is foreseeable and what is not foreseeable.

All of these factors must be considered when we ask the question 'Is the defendant in breach of the duty of care?'

a Negligence is...

b The duty of care is...

c Acts are...

d Omissions are...

e To omit to do something means ...

f Reasonably Foreseeable means...

g Objective means...

h Subjective means...

not to do that particular thing. (1)

predictable. Something that I anticipate might happen as a result of my conduct. (2)

things that I actively do. (3)

influenced by your own, personal feelings and opinions when you have to decide something. (4)

not being careful enough. It is similar in meaning to 'carelessness'. (5)

the duty not to harm other people. However, this duty is limited depending upon the situation in which the harm is caused. (6)

not influenced by your own feelings when you have to decide something. (7)

things that I do not do. (8)

Exercise 2

Read the information in Exercise 1 again and decide if the following statements are true or false.

a	Negligence is the tort that most legal action under the law of tort is based upon.	**True**	**False**
b	I am not liable for omissions under the law of tort.	**True**	**False**
c	All of the rules about liability under the law of tort come from the common law.	**True**	**False**
d	I do not owe a duty of care to everyone under all circumstances.	**True**	**False**
e	A defendant can always escape liability by saying that he did not personally foresee the harm that the claimant suffered.	**True**	**False**

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Exercise 3

Complete the following sentences with the correct prepositions.

a In the UK the majority of cases are based _____ the tort of negligence.

b I am bringing a claim against my doctor _____ negligence.

c An omission is a failure to do what a reasonable person would do _____ the same circumstances.

d I am only liable for breaching my duty of care to people _____ certain situations.

e The test to decide if something is reasonably foreseeable or not is an objective test, which means it does not matter what the defendant was thinking _____ the time when he or she caused the harm.

MORE ABOUT NEGLIGENCE

Exercise 1

Read this information about some of the general principles of the tort of negligence. The most important words are in the key vocabulary below. Match the questions that follow this information with the answers that are provided.

Key vocabulary

- **deterrent**
- **redress**
- **remote damage**
- **proof of damage**
- **actionable *per se***
- **negligent conduct**
- **compensation**
- **damages**

The rules in the law of tort concerning negligence aim to compensate anyone who suffers harm. However, these rules have another purpose. They aim to act as a **deterrent** against negligent conduct. A deterrent is something that persuades a person not to behave in a particular way. For example, the idea of prison may act as a deterrent to a person who considers committing a criminal act. The principles of the tort of negligence are designed to act as a deterrent against **negligent conduct**. Negligent conduct is behaviour that might lead to harm.

However, when a person is guilty of negligent conduct then it may be necessary to make a claim against that person. A court will look at the evidence and decide if the claimant is entitled to **redress**. The verb 'to redress' means to correct something that is unfair, usually by putting the claimant back in the position that he or she was in before the negligent conduct happened. The noun 'redress' has a very similar meaning to **compensation**. Redress usually takes the form of **damages**. Lawyers often talk about being 'entitled to redress'. This means being entitled to receive compensation or damages. Lawyers do not say 'entitled to *a* redress'.

As we already know, a court first of all considers whether or not the defendant owed a duty of care to the claimant. If there is no duty of care, then there is no claim. Then the court considers whether or not that duty of care was breached. If there was a breach, was the harm that the claimant suffered reasonably foreseeable? If the harm was not reasonably foreseeable then a lawyer will describe it as **remote damage**. The claimant is not usually entitled to redress for remote damage.

Some torts require **proof of damage**. In other words, the claimant must prove that the defendant's conduct caused harm. However, some torts, such as libel, are **actionable *per se***. If conduct is actionable *per se*, it means that the claimant does not need to provide proof of damage. The phrase '*per se*' is Latin. In English, *per se* means 'by itself'. The fact that the defendant committed the tort is enough for the claimant to be entitled to redress.

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a What is a deterrent?

b What is negligent conduct?

c What does redress mean?

d What is remote damage?

e What is proof of damage?

f What does it mean if something is actionable *per se*?

It means the same as compensation. (1)

It means that the claimant can make a claim for the thing that happened without any evidence of actual harm. (2)

It is evidence that the claimant actually suffered real harm, such as physical harm or loss of money. (3)

It is something that is designed to make people not do a particular thing or not behave in a particular way. (4)

It is careless behaviour that is likely to cause harm to another person. (5)

It is damage that the defendant could not reasonably foresee. (6)

A FAMOUS CASE IN ENGLISH LAW

Exercise 1

Read this information about a famous case from the law of tort in England. Answer the questions that follow using a full sentence.

The 'McLibel' case

On 15 February 2005, the longest case in English legal history came to an end. The case lasted for an amazing nine years and six months, the longest case in either criminal or civil legal history. There were 313 days of legal argument in court and 20,000 pages of court transcripts, which are the documents that record what happened in court. 130 witnesses gave oral evidence to the court. This case was based upon the law of tort.

The case was famous all over the world because of the nickname that people gave to it. This nickname was 'the McLibel case'. The claimant in the McLibel case was of course, McDonald's, the chain of fast food restaurants. The case was so famous that the word 'McLibel' now appears in some respected English dictionaries.

The facts of the case are as follows. The defendants in this case, Helen Steel and David Morris, belonged to a group of people who were worried about the environment and about the way that certain large corporations were behaving in relation to the environment. The group decided that the best way to tell the public about this was to give out leaflets containing information about the problem. In 1990, Helen and David stood outside several McDonald's restaurants in London. They gave leaflets to people who were in the area. The title of the leaflets was 'What's wrong with McDonald's: Everything they didn't want you to know'.

The problem was that the leaflets contained some very controversial claims. For example, the leaflet said that McDonald's was partly to blame for the destruction of the rainforests. It also claimed that McDonald's' food was unhealthy and eating too much of this food could give people health problems later in life.

In 1990 McDonald's issued a claim against Helen and David on the grounds of libel. The company did not need proof of damage, as libel is actionable *per se*. The libel trial started in 1994. There was no judgment until three years later. Helen and David were found to be guilty of libel. In 1999 Helen and David appealed, but again they were ordered to pay damages to McDonald's.

Helen and David refused to pay the damages. They decided instead to appeal to the European Court of Human Rights in Strasbourg. Two barristers from England represented Helen and David in Strasbourg. The Strasbourg court made a decision that changed English law. The court decided that the English courts followed the correct procedure but that nevertheless,

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the trial in England was unfair. This was mainly because Helen and David were poor compared to a big corporation such as McDonald's, which meant that they could not pay for an expensive legal team. As a result of this, Helen and David's defence was not so well prepared. The court also ruled that Helen and David's right to free expression was violated.

The court awarded Helen and David damages of nearly £47,000.

A FAMOUS CASE IN ENGLISH LAW

Exercise 1

Read this information about a famous case from the law of tort in England. Answer the questions that follow using a full sentence.

The 'McLibel' case

a How long did the 'McLibel' case last?

Answer: _____

b Who was the claimant in this case?

Answer: _____

c Who were the two defendants in this case?

Answer: _____

d What global issue were Helen and David worried about?

Answer: _____

e How did Helen and David tell the public about their worries?

Answer: _____

f What claim did Helen and David make concerning McDonald's and the environment?

Answer: _____

g Why did McDonald's not need proof of damage?

Answer: _____

h What was the decision of the court of first instance?

Answer: _____

i Why did the European Court decide that Helen and David's defence was not so well prepared as McDonald's' claim?

Answer: _____

j What other ruling did the European Court of Human Rights give in this case?

Answer: _____

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UNIT 5A VOCABULARY CHECK

These are the important words that you have studied in Unit 5A. You should make sure that you know these words before you go on to Unit 5B.

act
actionable
assault

battery

compensate
compensation
conduct

damage
damages
defamation
deterrent
duty of care

false imprisonment
foreseeable

harm
heads of tort

intention

liable
libel

negligence
negligent
nuisance

objective
omission
omit
overlap

per se
principle of law
proof

redress
remedy
remote

slander
subjective

tort
tortfeasor
trespass

wrong

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TOLES FOUNDATION EXAM PRACTICE

Exercise 1

Here is a conversation between a lawyer and his client. The conversation is mixed up. Put the conversation in the correct order. Write your answers in the boxes numbered 2–9 below. There is an example at the beginning (*), which is the start of the conversation.

(*) Good morning Mr Decker. Thank you for coming to see me today. I understand that you have a complaint about a newspaper story concerning you and your family published on 5 September.

a That's good news. I'm glad that I'm entitled to do something about this. And I'm certainly sure that this story damaged my reputation. But what does sue mean? Will the person who wrote this story go to prison?

b Is that the same as compensation?

c That would be the grounds if the untrue story about you was spoken and not written. In this situation however, we have good grounds for a defamation claim based upon libel.

d No. In England this type of thing is not a criminal matter. It is what we call a tort. It's a type of civil wrong. The punishment for the person who published the story will almost certainly be that he or she has to pay you damages.

e Really? I thought the grounds would be slander.

f Yes, that's correct. The story was in a London newspaper on 5 September and again in a magazine called 'Celebrity Gossip' on 7 September. My wife is very upset about it. We're trying to make sure that our children do not see the story, but it is difficult. Because I'm a professional footballer, my family are often in the newspapers and millions of people seem to be interested in our personal lives.

g Yes, it is. Both are a payment of money that the court considers will compensate you for the harm that the story did to your reputation. In this case the story was in written form, so we will sue them on the grounds of libel.

h I see. I understand that protecting your family is very important to you. As a professional sportsman, people are naturally interested in what you do. However, no one is allowed to say or write anything untrue about you that causes damage to your reputation. When this happens, you have the right to sue.

(1) (*)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

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Exercise 2

Read the text below. There are ten words missing from the text. In the spaces below, write the missing words. The first letter of each word has been provided for you. There is an example at the beginning (*).

THE LAW OF TORT

The law of tort compensates people who suffer a civil wrong. The formal name for a civil wrong is a (*) _____. Several different categories of tort exist under English law. Lawyers refer to these categories as 'the (1) _____ of tort'. These divide easily into two main types. They are torts relating to people and torts relating to land.

The tort that deals with being on another person's land without his or her permission is known as the tort of (2) _____ to land. This tort also includes placing objects on another person's land without that person's permission. The second tort relating to land is the tort of (3) _____ . This is the tort of interfering with someone's enjoyment of his or her own land. The usual complaints from claimants in this area are noise, pollution or bad smells. All of these are unacceptable when they last for a long period of time.

The second category of tort deals with a person's (4) _____ that causes harm to another person. Most cases in this area are on the grounds that the defendant was negligent. The unacceptable behaviour can be an act or an omission. An omission is a (5) _____ to do something that a normal, reasonable person would do under the same circumstances. However, the law places a limitation upon liability for negligent acts or omissions. The law says that a person only owes a duty of (6) _____ to another person in situations where it was reasonably (7) _____ that the act or omission would cause harm.

The law of tort is concerned with the idea of redress more than with the idea of punishment. The main aim of the law of tort is to (8) _____ the injured party. In cases where the defendant has liability for causing harm, the law offers the claimant a (9) _____. This means the claimant receives a solution for the wrong that he or she suffered.

In a case involving tort, the defendant, who is referred to by the formal name of a (10) _____, will usually have to pay damages to the claimant if he or she is guilty of causing harm.

(*) **t**ort

(1) **h**

(2) **t**

(3) **n**

(4) **c**

(5) **f**

(6) **c**

(7) **f**

(8) **c**

(9) **r**

(10) **t**

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Exercise 3

Read the following article and decide if the statements under it are true or false. Write your answers in the box below. There is an example at the beginning (*).

Colleen Corr is Irish. At the moment she lives in London. Colleen is a lawyer. She works in a bank. She works in the bank's legal department as a case manager. The bank that Colleen works for has a contract with a large catering firm to provide a restaurant service for all members of bank staff. Anyone who works for the bank can either eat in the restaurant or buy a meal from the restaurant to take away and eat at his or her desk.

In December of last year, Colleen bought a salad in a plastic container from the restaurant and because she was busy, she took the salad to her desk to eat while she continued to work. As she was eating, Colleen bit a hard object that was in the salad. The object was a small stone. Colleen broke a tooth as a result of biting the stone. Colleen had to visit the dentist and the bill was £630. Colleen complained to the catering company but the manager of the catering company says that it accepts no liability for Colleen's injury. Colleen is now suing the catering company on the grounds of negligence. She is claiming the cost of visiting the dentist and an additional amount of £100 for her pain and suffering.

Example

(*) Colleen Corr is not English.

1 Colleen Corr works as the general manager of a bank.

2 The bank has a contract with a catering company to provide food for bank employees.

3 Colleen was eating in the bank's restaurant when she damaged her tooth.

4 Colleen is not suing her employer for negligence.

5 The total amount that Colleen is claiming is £730.

(*) TRUE	(1)	(2)	(3)	(4)	(5)

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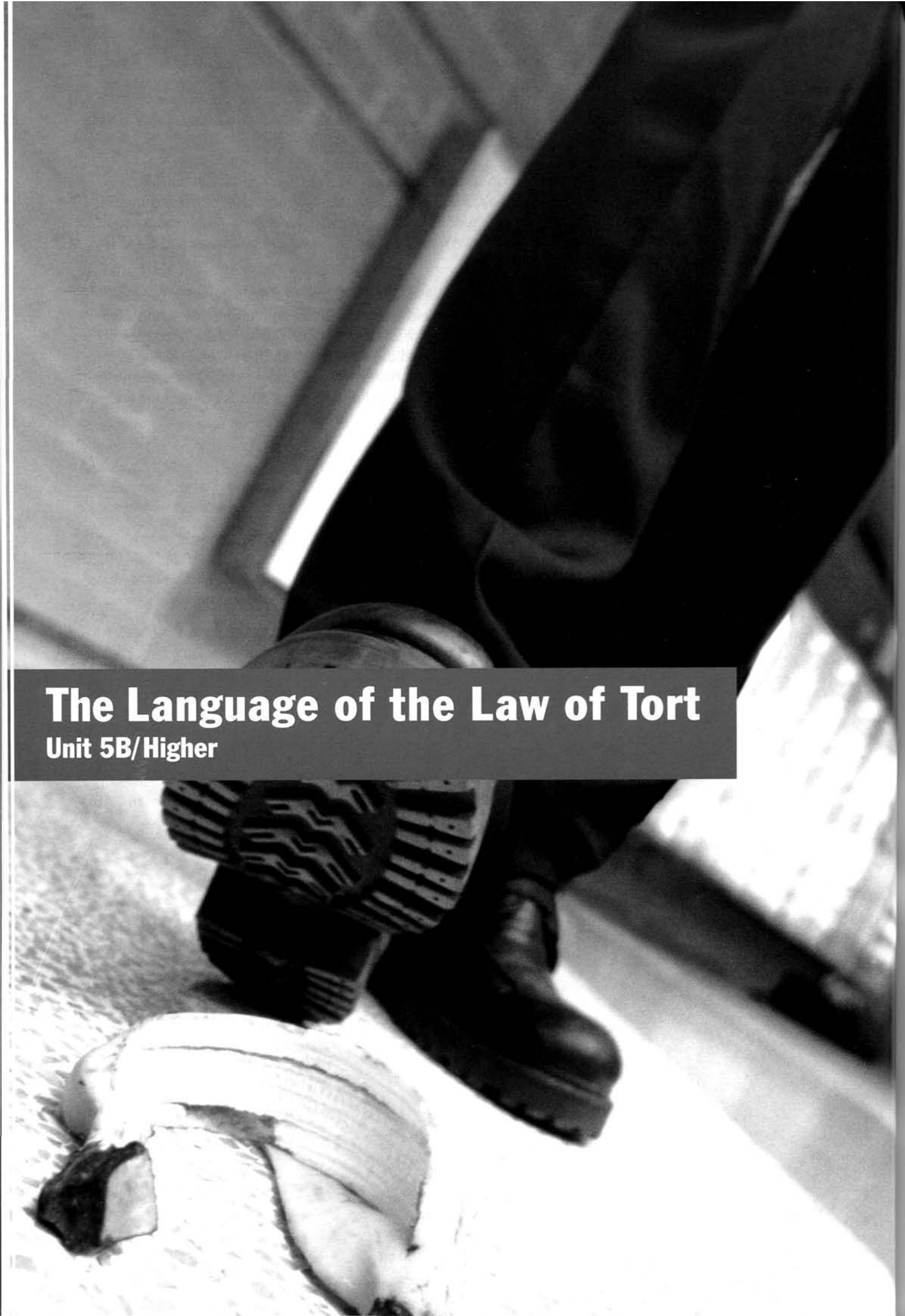

The Language of the Law of Tort

Unit 5B/Higher

THE LAW OF TORT

AN INTRODUCTION TO THE LAW OF TORT

Exercise 1

Ann Edington is a professor in the law department at the University of Chatsworth. She is giving a lecture to the first-year law students on the subject of the law of tort. Here are Ann's notes for her lecture. Fill in the gaps in the text with a word from the box below.

remedy	**damages**	**distress**	**care**	**wronged**
deterrent	**redress**	**incurred**	**proof**	**breached**

Lecture notes – an introduction to tort

The word 'tort' comes from the latin term 'tortus', which means 'twisted'. From there it came to mean 'wrong', as the word continues to be used in French. In English, the word 'tort' is only used as a technical term by lawyers. The law of tort is the law that deals with civil wrongs. Some law textbooks describe the law of tort as 'the law of wrongs'.

What is the purpose of this area of law? Many lawyers describe this as the most disorganised area of law. It has even been described as 'the dustbin of law', meaning that it is the place where all of the problems that other areas of law cannot deal with will eventually arrive. However, the principal purpose of the law of tort is to provide a (**a**) _____ to those who have been (**b**) _____ by others. Some of these wrongs might be covered by criminal law or by contract law as well as by the law of tort, but some might not be.

However, people are not liable for wrongs to others in every situation in life. Let's say that person A harms person B in some way. Is person B entitled to what lawyers call '(**c**) _____'? It is certainly not automatic that person B can make a claim against person A according to the law of tort. It depends on the type of harm that has been caused and under what circumstances. The law of tort is based upon principles that have developed over many years. These principles explain what lawyers refer to as 'tortious liability'. This is where one person or organisation has a duty in the eyes of the law not to harm another in any way. This duty is called a duty of (**d**) _____. To make a successful claim against someone according to the law of tort, you must first of all establish that:

- the person who has harmed you owed a duty of care to you, and
- the duty of care was (**e**)_____.

In some cases you also need to provide the court with (**f**) _____ of harm, but in other cases just proving that the duty of care was breached is enough.

The main objective of the law of tort is not to punish the wrongdoer, but to compensate the injured party. This compensation usually takes the form of a payment of money that is referred to as (**g**) _____. Let's say that person A is driving dangerously and causes harm to person B by crashing into his car. In this example, person A has an automatic duty of care not to harm anyone in this way and that duty has been breached. A court might award damages to cover the cost of buying a new car. It might also award damages for any

continued

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other expenses that person B has (**h**) _____, such as loss of earnings if he is unable to go to work. The court also might add a certain amount of damages to the sum awarded for things that are difficult to measure, such as person B's pain and suffering. The phrase moral damage is *not* used in English to describe this kind of suffering. We usually describe it as 'pain and suffering' or 'emotional (**i**) _____ '.

Some lawyers think that the law of tort also acts as a (**j**) _____ in that people think twice before behaving in a way that could lead to harm.

Exercise 2

Complete the sentences below with the correct words from the box in Exercise 1.

a My client was seriously _____ by the story that you printed about her in your magazine and she is considering legal action against you.

b According to English law you have a duty of _____ to every citizen not to harm them in any way.

c The grounds of our claim against you are that you have _____ your duty of care to my client.

d The court awarded my client _____ in the amount of £15,000 in her libel case against Gossip magazine.

e The judge said that he hoped the amount awarded would act as a _____ to any journalists in future who are thinking about publishing a story that might not be true.

f Libel does not require _____ that any damage has occurred as a result of the tort. It is actionable in court *per se*.

g My client admits that his conduct was a breach of the duty of care that he owes to your client. He also acknowledges that your client is entitled to some kind of _____, probably in the form of damages, to compensate her for her loss.

h My client has _____ expenses totalling £8,500 as a result of your client's negligent driving. This amount includes my client's loss of earnings for the period in question.

i We will be claiming damages totalling £12,000, which includes an amount to cover the emotional _____ that my client has suffered as a result of your breach of duty.

j Your client was at fault in this situation and the law will provide my client with a _____ if you do not settle the matter out of court.

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Collocation bank

- to **provide** a remedy
- to be **entitled to** damages
- to **award** damages
- to **incur** expenses
- **loss** of earnings
- to **act** as a deterrent

Preposition bank

- to be liable **for** something
  'You are liable **for** the results of your breach of duty of care.'
- to depend **on** something
  'The amount of damages awarded will depend **on** the amount of earnings you have lost.'
- **under** certain circumstances
  '**Under** the circumstances your client is at fault.'
- to be entitled **to** something
  'My client is entitled **to** redress.'
- to have a duty **to** another person
  'You have an automatic duty **to** every other citizen not to cause them harm because of your conduct.'
- to cause harm **to** someone.
  'Your client's negligent conduct was the cause of the harm **to** my client.'

WHAT IS TORTIOUS LIABILITY?

Exercise 1

Ann Edington's second lecture on the law of tort is about tortious liability. Here are the notes that Ann has prepared for her lecture. Read what Ann is planning to say to her students about tortious liability and decide whether the statements that follow are true or false.

Lecture notes – tortious liability

It is very difficult to give an exact definition of what tortious liability is. Lawyers and academic writers do not seem to be able to find a clear definition upon which they agree completely. In general, it is liability for harm that is caused to another person due to a breach of a duty of care. Let us now look at some important aspects of tortious liability.

- Some tortious liability arises from the common law and some from statute.
- All citizens within a particular jurisdiction have a duty of care automatically imposed upon them by the law of tort. In this way, it is very different from contract law, in which the parties to a contract assume their obligations voluntarily. For example, the law of tort in England imposes an automatic duty upon every citizen not to go onto anyone else's land without his or her permission. There is no need for any two individuals to agree privately upon this. The parties concerned may not have had any contact with each other at all before the tort of trespass to land is committed. In this respect, it is much the same as in criminal law.
- The law of tort will impose liability where a person has acted in a certain way, or *failed* to act in a certain way if the law requires it. This means that liability in the law of tort can arise as a result of either an act or an omission.

continued

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- It is also possible according to the law of tort to be liable for the acts or omissions of another person with whom you have a certain relationship. An employer, for example, can sometimes be held liable for the acts or omissions of his or her employees. This type of liability is called vicarious liability.
- Most of the tort claims that are brought are based on fault. This means that the defendant has done something wrong. This fault can consist of having an intention to commit a wrong, but negligence is often enough to establish fault.
- Some torts are based on what lawyers call 'strict liability'. This means that there is liability in certain situations independent of any fault. The defendant in any situation, known as the tortfeasor, will be liable even though harm to the claimant happened without intention or negligence. For example, let's say a defendant keeps something on his or her land that is dangerous, such as a harmful chemical. The chemical escapes, due to no fault of the defendant, and causes harm to neighbours. This is called a breach of a strict duty. The defendant is liable even though he or she is not at fault.
- Most torts require proof of damage suffered. In addition, that damage must not be too remote as a consequence of the defendant's behaviour. However, some torts do not require proof of actual damage. Libel is an example of this. If I write something about someone that is not true, that person does not need proof of damage to bring an action against me under the law of tort.

a	According to English law the liability that arises in the law of tort comes from both statute and the common law.	**True**	**False**
b	It is possible to bring a case against someone under the law of tort without having any kind of private agreement or contract with that person.	**True**	**False**
c	It is impossible to be liable under the law of tort because you haven't done something.	**True**	**False**
d	It is impossible to be liable for the actions of another person under the law of tort.	**True**	**False**
e	It is not always necessary to be guilty of some fault to be liable for a tort.	**True**	**False**

Exercise 2

Look at Ann Edington's lecture notes on tortious liability again. Find the words or phrases in the notes that match each of the following meanings.

a The duty that every citizen owes to every other citizen, according to the law of tort.

The word or phrase is _____

b The name for the general responsibility for harm caused to other people according to the law of tort.

The word or phrase is _____

c The tort of entering onto someone else's land or property without that person's permission.

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The word or phrase is _____

d A word that means a failure to do something that it is your duty to do.

The word or phrase is _____

e The name of the particular responsibility that one person might have for another person's acts or omissions according to the law of tort.

The word or phrase is _____

f A lack of proper care or not fulfilling a duty that it is your obligation to fulfil which results in harm to another.

The word or phrase is _____

g The name of the particular responsibility that every citizen owes to every other citizen regardless of whether he or she is guilty of any intention or negligence when causing harm.

The word or phrase is _____

h A person who has breached the duty of care and has caused harm to another person as a result of that breach.

The word or phrase is _____

i A word meaning 'distant' or 'far away'.

The word or phrase is _____

j A published statement that is not true and which damages someone's reputation as a result of being published.

The word or phrase is _____

Collocation bank

- to **impose** a duty of care upon someone
- to **assume** an obligation voluntarily
- to be **held** liable for something
- to **commit** a tort
- **remote** damage
- to **owe** someone a duty

Preposition bank

- to arise **from** the common law or statute
  'Many of the principles of the law of tort arise **from** the common law.'
- a duty imposed **upon** someone
  'Statute imposes a duty **upon** you concerning your liability for any products that you sell to the public.'
- the tort of trespass **to** land
  'Going onto someone's land without their permission is known as trespass **to** land.'
- to have proof **of** something
  'Some torts are actionable without proof ***of*** damage.'

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SOME CATEGORIES OF TORT

Exercise 1

Several different types of tort exist in the UK and the USA. Some of these categories of tort are listed in the box below, together with areas of liability arising under the law of tort. Match each type of tort or area of liability with the situations that follow.

occupier's liability (1)	**defamation** (5)
vicarious liability (2)	**employer's liability** (6)
product liability (3)	**trespass to land** (7)
nuisance (4)	**false imprisonment** (8)

a 'I own a factory where bread and cakes are manufactured. I did not provide my workers with the special gloves that they need when they are taking things out of the ovens. One of my workers has suffered very serious burns to his hands and arms as a result.'

b 'My neighbour has started to keep animals in her garden. She has some hens and a small pig. The noise and the smell are terrible.'

c 'I own a company that transports goods by lorry. Last week one of my drivers was in a petrol station during his working hours. He lit a cigarette and threw away a lighted match, which caused an explosion.'

d 'I bought my son a toy from a company on the Internet. The toy is a battery-operated train. When the train was switched on the batteries became extremely hot and my son burnt his hand when he was playing with it.'

e 'I own a magazine that contains a lot of gossip about celebrities. Last month my magazine printed a story that said a local footballer here in Chatsworth had kept some money raised at a charity event for homeless people. I now know that the story was completely untrue.'

f 'I study geography at the University of Chatsworth. Last week the whole class had very bad results on a test. The professor was furious. He locked the door of the lecture room and he refused to let anyone out of the room until he had finished speaking to us. He kept us there for one hour after our usual time.'

g 'I went into a bar last week with some friends and I slipped on some beer that was on the floor. When I fell I cut my hand on some broken glass. Another customer in the bar told me that a man had dropped a bottle of beer there about 20 minutes earlier. The bar staff had been told that there was beer and broken glass on the floor, but they had been too busy to clean it up.'

h 'My neighbour walks across my land as a shortcut to the shops. I have been asking him to stop doing this for months now, but he doesn't listen to me.'

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LISTENING

Exercise 1

Listen to this professor who is giving her students a lecture. It is an introduction to the law of tort. Listen to the lecture and answer the following questions.

a The professor says that some people give the law of tort a different name. What is it?

Answer: _____

b What is the meaning of the word 'redress'?

Answer: _____

c What do the majority of claimants want when they bring an action to court under the law of tort?

Answer: _____

d The professor says that damages are one form of redress that the courts can offer to an injured party. What is the other remedy that she mentions?

Answer: _____

e How does the professor define the tort of nuisance?

Answer: _____

f What does the professor say is the correct term for a person's liability in the law of tort?

Answer: _____

g The professor mentions an automatic duty that the law imposes upon everyone. What is the name of this duty?

Answer: _____

h The professor mentions two ways in which a person has a duty under the law of tort not to harm another. One duty is not to harm a person physically. What is the other duty that she mentions?

Answer: _____

i The professor mentions that the law of tort and the law of contract overlap in some ways. She gives an example of a company supplying something to a group of consumers that will lead to concurrent liability in tort and criminal law. In the professor's example, what did the company supply to the consumers?

Answer: _____

j How does the professor say that some legal commentators have described the law of tort?

Answer: _____

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THE TORT OF NEGLIGENCE

Exercise 1

Most tort cases in England and the USA are based upon the tort of negligence. Read the following text about the tort of negligence. Fill the gaps in the text with a verb from the blue box.

expect	**do**	**ask**	**agree**
owe	**contribute**	**argue**	**establish**

Under what circumstances is a person or organisation guilty of the tort of negligence? Unfortunately, the definition of the legal term 'negligence' varies according to which book or legal dictionary you are reading. The legal term 'negligence' has a much more complex meaning than the general English meaning of the word. However, most lawyers (**a**) _____ upon the idea that in order to establish negligence in a particular situation we must (**b**) _____ three fundamental questions. These are:

- Did the defendant (**c**) _____ the claimant a duty of care?
- Was that duty of care breached?
- Did the defendant's breach cause, or materially (**d**) _____ to, the damage suffered by the claimant?

If the answer to all three questions is 'yes', then the defendant has been negligent in the legal sense of the word.

To whom do I owe a duty of care? The case law in this area is complicated. However, there is a principle of English law that says that I owe a duty of care to anyone in situations where it is reasonably foreseeable that my act or omission might cause harm to another person. In other words, it is a defence to an allegation of negligence to (**e**) _____ that no reasonable person would have anticipated that my act or omission would cause harm.

Assuming that I can reasonably anticipate the result of my act or omission, what standard of care does the law (**f**) _____ from me? How do I know when I have breached my duty of care? To answer this question, most English law students are asked to remember the general principle of negligence provided by a judge named Alderson in the case of *Blyth v Birmingham Waterworks (1856)*. The judge said:

> 'Negligence is the omission to (**g**) _____ something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do.'

Again, the question of whether or not I have breached my duty of care has been decided by an objective test. What would an ordinary, reasonable person do under the same circumstances?

Finally, in order to firmly (**h**) _____ negligence, the claimant must demonstrate that the negligent act of the defendant was the main cause of the damage complained of. A court will often ask:

- Was the chain of causation broken at any time?
- Would the harm that the claimant suffered have happened anyway, even if the defendant had not acted in a particular way?
- Even where there is a clear chain of causation, was the damage too remote, in other words, not reasonably foreseeable by the defendant?

In conclusion, establishing that someone has been negligent is not as straightforward as the general public might imagine.

Collocation bank

to **establish** negligence	reasonably **foreseeable**	the **cause** of damage
to **suffer** damage	to **allege** negligence	a **chain** of causation

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Preposition bank

- to act **in** a way
  'Your client acted **in** a particular way that caused harm to my client.'
- **in** order to do something
  '**In** order to establish negligence we must show that the defendant breached his duty of care to you.'
- foreseeable **by** someone
  'The damage was reasonably foreseeable **by** your client.'
- to be guilty **of** something
  'The defendant was guilty **of** committing this tort.'

Exercise 2

Read the text in Exercise 1 again and decide if the following statements are true or false.

a	The legal meaning of the word 'negligence' is more complicated than the general, dictionary meaning as the public would understand it.	**True**	**False**
b	According to English law, I owe a duty of care to *all* other citizens in *all* situations.	**True**	**False**
c	The test of whether or not one person owes another person a duty of care is an objective one.	**True**	**False**
d	The definition of negligence in this text from the year 1856 comes from the common law.	**True**	**False**
e	In cases where there is a clear chain of causation between the defendant's conduct and the claimant's harm, the defendant will always be guilty of negligence.	**True**	**False**

Exercise 3

Complete the following sentences on the subject of negligence with a preposition from the box below

- **by**
- **under**
- **At**
- **upon**
- **of**

a Do we agree _____ the fact that your client owed my client a duty of care?

b We must ask ourselves what a reasonable person would have done _____ those circumstances.

c The defendant did not take reasonable care when using dangerous chemicals and so he is guilty _____ behaving negligently.

d The damage caused to the claimant was not reasonably foreseeable _____ the defendant.

e _____ what point do you think that the chain of causation was broken?

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THE MOST FAMOUS TORT CASE

Exercise 1

Read this text about a very famous case in the law of tort and answer the questions that follow using a full sentence.

There is a particular case that almost every lawyer in every common law system in the world is familiar with. This is the famous case of *Donoghue v Stevenson*. The facts of the case are as follows:

On 26 August 1928, Mrs May Donoghue of Glasgow left her home to make the short journey into Paisley, a neighbouring town. Upon arriving in Paisley, Mrs Donoghue met a friend at Minchella's café at 1 Wellmeadow Street. Her friend ordered and paid for a pear, an ice-cream and a bottle of ginger beer, which is a drink that was very popular at that time. In doing so they began the events that would change legal history forever.

The ginger beer was manufactured by Mr David Stevenson of Paisley. It came in what was described as an 'opaque' bottle, so unfortunately no one was able to see what was in the bottle until the contents were poured out. The café's proprietor, Mr Francis Minchella, poured part of the ginger beer onto Mrs Donoghue's ice cream to make what is known as 'an ice cream float'. Mrs Donoghue apparently began to eat with enthusiasm.

What happened next was the basis for the entire case. It is said that when Mrs Donoghue's friend was pouring out the rest of the contents of the bottle into a glass, he or she saw floating out of the bottle what seemed to be the partly decomposed remains of a snail. Mrs Donoghue claimed she was made ill by what she had seen. Certainly, she had medical treatment from her doctor three days later for gastro-enteritis, and again three weeks later, on 16 September 1928, at the Glasgow Royal Infirmary. She also claimed that she had suffered from 'nervous shock'.

If it had been Mrs Donoghue's mysterious friend, (he or she was never named), rather than Mrs Donoghue herself who had suffered the effects of the ginger beer, then the legal world would probably have heard nothing about it. The friend could have sued Mr Minchella because there was a contract of sale between them, of which Mr Minchella was clearly in breach. However, there was no contractual relationship between Mr Minchella and Mrs Donoghue. The only person she could possibly sue was David Stevenson, the manufacturer of the ginger beer. The question was, on what grounds?

Mrs Donoghue was advised by a remarkable solicitor, Walter Leechman, of Leechman and Co, Glasgow. Mr Leechman decided to proceed with Mrs Donoghue's case, even though there was no legal precedent for such an action. The basis of the claim was simple. It was that any manufacturer of a product intended for human consumption must be liable to the consumer for any damage resulting from a lack of reasonable care to ensure that the product is fit for consumption.

The case proceeded through various appeals to the highest court in the land, the House of Lords. The Lords decided in favour of Mrs Donoghue, and so it happened that a new precedent was established and a lady who said she was 'not worth five pounds in all the world' became the reason why, these days, millions of pounds and dollars have been won by claimants based on the tort of negligence.

a Where was Mrs Donoghue from?

Answer: _____

b What was the address of the café where the incident happened?

Answer: _____

c Why was no one able to see the contents of the bottle of ginger beer before it was poured out?

Answer: _____

d What did Mrs Donoghue claim to have found in her bottle of ginger beer?

Answer: _____

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e What physical illness was Mrs Donoghue treated for soon after her visit to the café?

Answer: _____

f What was the name of the hospital where Mrs Donoghue was treated?

Answer: _____

g What second serious effect did Mrs Donoghue claim the incident had caused?

Answer: _____

h Why could Mrs Donoghue 's friend have sued Mr Minchella if he or she had drunk the ginger beer?

Answer: _____

i Why was it so surprising that Mr Leechman decided to take this case to court?

Answer: _____

j This case established that a duty of care exists in English and Scottish law between manufacturers and which other general group of people?

Answer: _____

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USING YOUR KNOWLEDGE

Collocation review

Complete these sentences with a collocation that you have seen.

a The judge _____ the claimant damages of £12,000.

b As my client has been unable to work, she will be making a claim based on her _____ of earnings. This amounts to £3,500.

c Some legal professionals think that the law of tort _____ as a deterrent in that it makes people think very hard about the consequences of their actions and may stop some people from doing potentially damaging things.

d The law _____ a duty of care on all employers to make sure that their employees work in a safe environment.

e The judge decided that the defendant _____ a duty of care to the claimant and that the defendant had breached that duty.

f Each party to a contract _____ his or her obligations voluntarily, but in the law of tort obligations exist whether people want to have them or not.

g In order to _____ that there has been negligence, the claimant must first satisfy the court that the duty of care has been breached.

h My client _____ damage to her health as a result of your client's negligence.

i My client could not have anticipated the result of her conduct and we deny that the harm that she caused was reasonably _____.

j My client's conduct was not the direct cause of the damage to your client's financial loss, as the _____ of causation was broken by several other events.

Vocabulary review

Complete these sentences with a word that you have seen.

a English speakers do not use the phrase 'moral damage' to describe a claimant's suffering but describe this type of suffering as emotional _____.

b The name of the general liability that people have according to the law of tort is _____ liability.

c The name of the liability that one person might have for the acts and omissions of another person is called _____ liability.

d The name of the liability that requires no proof of harm but is actionable *per se* is known as _____ liability.

e The person or organisation that has committed a tort is formally known as a _____.

f The tort of interfering with someone's enjoyment of his or her land by, for example, making a lot of noise is known as _____.

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g Libel and slander are collectively known as the tort of _____.

h The tort of going onto someone's land without his or her permission is known as _____ . to land.

i The usual _____ that is available to the claimant in tort cases is an award of damages, which must be paid by the defendant.

j If the damage caused to the claimant by the defendant's conduct was not reasonably foreseeable then a court might describe this as _____ damage.

Preposition review

Complete these sentences with the correct preposition.

a Each citizen within a particular jurisdiction is liable _____ any breach of his or her duty of care.

b If you cause harm _____ someone as a result of a breach of the duty of care then you will probably be ordered to pay damages to that person.

c The amount of damages that you have to pay will be dependant _____ the circumstances of the case.

d My client is entitled _____ redress for the harm that she has suffered.

e Many of the principles of the modern law of tort arose _____ the facts of the case of *Donoghue v Stevenson*.

f Many of the obligations that we have under the law of tort are imposed upon us _____ statute.

g Do we agree _____ the fact that your client was liable for this accident?

h There was no break in the chain _____ causation and your client was directly responsible for my client's loss.

i Mrs Donoghue met her friend at a café _____ the town of Paisley.

j When Mrs Donoghue's case went to court there was no legal precedent _____ such an action.

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TOLES HIGHER EXAM PRACTICE

Exercise 1

There is a word or phrase missing from the following sentences. For each sentence circle the word which best fits into the space from the options provided. Do not mark more than one answer for each sentence. There is an example at the beginning (*).

Example As well as compensating people who have suffered a loss, the law of tort is intended to act as a (*) _____ to harmful conduct.

1 According to English law, each citizen has a duty of (1) _____ to other citizens under certain circumstances.

2 The liability that people have under the law of tort in situations where no proof of damage is required, is known as (2) _____ liability.

3 The main objective of the law of tort is to compensate the (3) _____ party for the harm that he or she has suffered.

4 The phrase 'emotional (4) _____' is used by lawyers in England to describe a client's mental pain and suffering.

5 People have no choice as to whether to accept liability under the law of tort, as the law (5) _____ this liability upon them.

6 In negligence cases, a claimant will only be compensated for harm that is reasonably (6) _____ by the defendant.

7 In some negligence cases the claimant is refused a remedy on the grounds that the harm he or she has suffered is too (7) _____.

8 The liability that people have in the law of tort in situations where one person can be liable for the acts and (8) _____ of another is known as vicarious liability.

9 The act of going onto someone's land without their permission is known as the tort of (9) _____.

10 The tort of defamation has two forms, which are slander and (10) _____.

(*)	**A** prevention	**B** deterrent	**C** warning	**D** caution
(1)	**A** carefulness	**B** caution	**C** care	**D** watchfulness
(2)	**A** absolute	**B** total	**C** definite	**D** strict
(3)	**A** injured	**B** damaged	**C** defective	**D** hurt
(4)	**A** damage	**B** misery	**C** torture	**D** distress
(5)	**A** puts	**B** imposes	**C** forces	**D** compels
(6)	**A** anticipated	**B** foreseeable	**C** probable	**D** predictable
(7)	**A** distant	**B** isolated	**C** far	**D** remote
(8)	**A** errors	**B** failures	**C** omissions	**D** oversights
(9)	**A** intrusion	**B** trespass	**C** invasion	**D** disturbance
(10)	**A** criticism	**B** falsehood	**C** libel	**D** fiction

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Exercise 2

Read the following sentences that have a preposition missing from them. For each sentence circle the preposition that best fits into the space from the options provided below. Do not mark more than one answer for each sentence. There is an example at the beginning (*).

Example My client was seriously harmed by your conduct and he is entitled to sue you (*) _____ the grounds of negligence.

1 The court awarded damages to the hotel (1) _____ the amount of £10,000 after the magazine published a defamatory story about events that happened in its kitchen.

2 The grounds of our claim (2) _____ your client are that your client's story in the Daily Journal amounted to defamation.

3 My client will be claiming for his loss (3) _____ earnings for the entire period that he could not work.

4 In some cases an employer is liable (4) _____ his employees' acts and omissions.

5 A manufacturer of goods is liable (5) _____ the consumer for the safety of those goods.

6 My client has suffered emotional distress (6) _____ a result of your client's conduct.

7 The amount of damages that you are awarded will depend (7) _____ the amount of harm that you have suffered.

8 An omission is a failure to act (8) _____ a certain way.

9 The law of tort says that you have a duty (9) _____ other people.

10 Several of my neighbours walk (10) _____ my land as a shortcut and I would like them to stop.

(*)	**A** on	**B** for	**C** with	**D** to
(1)	**A** for	**B** on	**C** in	**D** into
(2)	**A** with	**B** against	**C** of	**D** to
(3)	**A** from	**B** to	**C** in	**D** of
(4)	**A** to	**B** with	**C** by	**D** for
(5)	**A** to	**B** with	**C** by	**D** for
(6)	**A** with	**B** for	**C** as	**D** for
(7)	**A** by	**B** on	**C** into	**D** to
(8)	**A** in	**B** for	**C** to	**D** on
(9)	**A** for	**B** with	**C** to	**D** by
(10)	**A** across	**B** to	**C** in	**D** against

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Listening

Exercise 3

Listen to this conversation between a lawyer and her client. Decide if the following statements are true or false.

1 A friend of Mr Kelly recommended Miss Armstrong because she has a good reputation in defamation cases.

2 Mr Kelly and his wife have moved to France to escape from the terrible rumours about his life.

3 FriendsAgain.com is a website where old school friends can chat.

4 Most of Mr Kelly's pupils were French and German.

5 Gary Hetherington's father was angry with Mr Kelly when Gary was expelled from the school.

6 Mr Kelly has emailed the untrue comments from the website to Miss Armstrong.

7 Mr Kelly was dismissed from his job at St Bernadette's school.

8 Jim Murray was libelled on the same website as Mr Kelly.

9 The defendant in the case that Jim Murray brought in 2002 is now also a teacher.

10 If Mr Kelly wins damages from Gary Hetherington he is going to use the money to pay for a holiday.

True or false?

(1)	(2)	(3)	(4)	(5)
(6)	(7)	(8)	(9)	(10)

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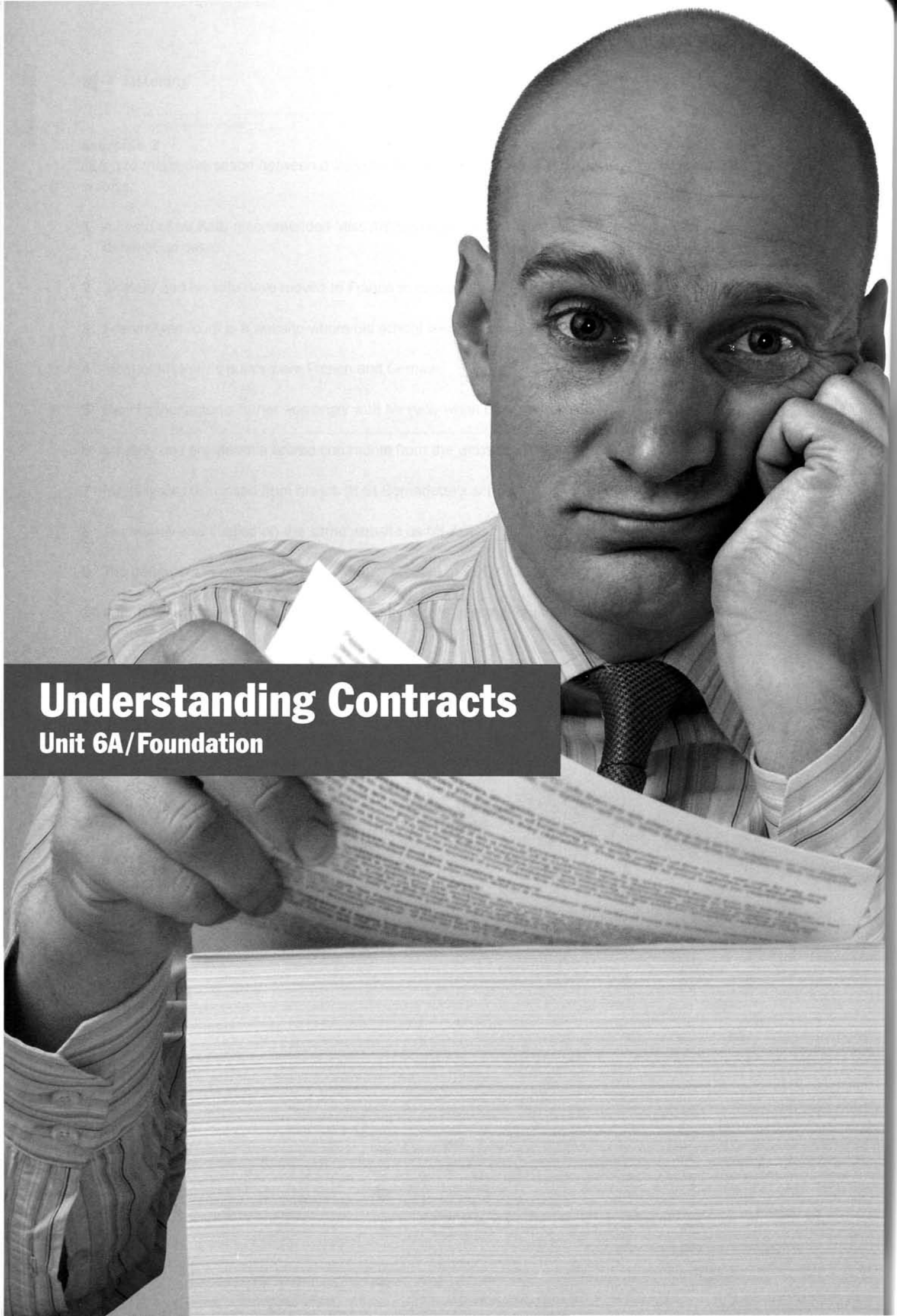

Understanding Contracts

Unit 6A/Foundation

UNDERSTANDING CONTRACTS 1

THE STYLE OF WRITTEN CONTRACTS

Exercise 1

Read this text about the style of English that lawyers use in contracts. Answer the questions that follow using a full sentence.

The English of contracts

Lawyers in most countries use different and more difficult language to draft contracts from the language that they use every day. This is certainly true within the English legal system. However, when you know in what ways the language of contracts is different, you can look at the language very carefully and understand it more easily. Here is a list of what makes the English of contracts different from normal English:

- Lawyers use very long sentences when they draft contracts. A typical sentence in a contract can be 100 words or more.
- Often these very long sentences have no punctuation. This sometimes makes it difficult to understand what the sentences mean.
- Sentences in contracts have an unusual structure. Sometimes legal writing doesn't use words in the same way as general English. Sometimes verbs, nouns and adjectives are put in a sentence in a different order from normal.
- Lawyers often use too many words. A lawyer might use 20 words to write something that he or she could write with five words.
- Contracts contain words that people don't use any more because they are so old-fashioned. For example, there are English words that you will find in a play like Romeo and Juliet or in a contract, but nowhere else. Contracts also contain very formal words that no one really uses in general English.
- Lawyers use long lists of synonyms in contracts. This is because when a lawyer drafts a contract he or she thinks about the fact that a judge will interpret the contract if there is a dispute. In codified legal systems words have a clear definition. However, in the common law system judges have interpreted words in different ways. Lawyers use lists of synonyms to make sure that there is no possibility of misinterpretation.
- Lawyers like to use the passive voice. The passive is more difficult than the active.
- Contracts contain technical words that are part of the language of the law or part of a particular area of business. It is necessary for a lawyer to use these words.

All of these things produce a style of writing that is very unusual, even to a native English speaker. The language that lawyers use in contracts is so different from general English that some people say it is not real English at all, but a language only for lawyers, called 'legalese'. There is a movement in England away from legalese. Lawyers are now encouraged to write in a more modern, understandable style called 'plain English'. This is good news for international lawyers.

a Is the English of contracts easier or more difficult than general English?

Answer: _____

b How long can a typical sentence sometimes be in a contract written in English?

Answer: _____

c Do lawyers use words in the same order as in general English when they draft contracts?

Answer: _____

d Why do lawyers use long lists of synonyms when they draft contracts?

Answer: _____

continued

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e What is the name that people give to the style of writing that lawyers use?

Answer: _____

f What is the name of the style of writing that modern lawyers are encouraged to use?

Answer: _____

Help desk

What do these words mean?

punctuation – the marks that people use to divide writing into different sections. Examples of punctuation are commas and full stops.

sentence structure – the way in which a sentence is organised.

word order – the order of something is what comes first, second, third, etc. In different languages the verb, noun and adjective may be in a different order in a sentence.

synonym – a word that has the same meaning or almost the same meaning as another word. For example, 'small' and 'little' are synonyms in English.

the passive – a sentence that uses the passive is a sentence that has as its subject the person or thing to which an action is done. An example of the passive is 'the contract was signed by the client'. In the active you would say 'the client signed the contract'.

Exercise 2

In the blue box are some examples of words or phrases that lawyers often use in contracts. They are examples of the more difficult words that lawyers use. You will need to understand these words to do Exercise 3. Match the words or phrases with the definitions below.

in the event of (1)

terminated (2)

forthwith (3)

extent (4)

territory (5)

entitled to (6)

compensation (7)

manner (8)

a an area of land

b amount or level

c payment for something that is lost or damaged

d have the right to something

e ended

f if something happens

g immediately

h the method or way of doing something

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Exercise 3

Here are three examples of a lawyer's writing. All three examples are extracts from contracts. A client asks his lawyer what each extract means. Use Exercise 2 to help you to match each piece of writing with the explanation given by the lawyer below. ***You do not need to understand every single word*** *to do this exercise.*

Extracts from contracts

a In the event of the death of the Supplier the rights and obligations under this Agreement shall be terminated forthwith.

b In the event that any property of the Contractor is lost or damaged in the course of transportation then the Contractor shall be entitled to compensation from the Company.

c The Company shall allow the Distributor to have full and complete control over the manner and the extent of the exploitation and advertisement of the Product in the Territory.

The lawyer's explanations

☐ 'If any of your property is lost or damaged on the journey then the company will pay for it.' (1)

☐ 'You will have complete control of the advertising of the product in the area of the world that we agreed.' (2)

☐ 'If you die then this contract will end immediately.' (3)

Help desk

What do these words mean?

a supplier – a person or company that provides a particular product or service.

a right – a legal entitlement to do or to have something.

property – a person's possessions or general things that they own. Property is different from real property, which means land.

a contractor – a person or company that makes a legal agreement to provide goods or services to another person or company.

a distributor – a person or a company that supplies goods in a particular area, often to shops, *on behalf of another person or company.*

an obligation – a legal duty to do or not to do something.

UNDERSTANDING FORMAL EXPRESSIONS

Exercise 1

Lawyers sometimes use expressions that are very formal when they draft contracts. Here is a list of formal expressions that you will often see in contracts. Choose the more modern word or expression from the blue box on the next page to match the following expressions.

- 'in the near future'
- 'at the present time'
- 'in the event of'
- 'during such time as'
- 'until such time as'
- 'on the part of'
- 'due to the fact that'
- 'not less than'

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- **until**
- **now**
- **at least**
- **because**
- **if**
- **by**
- **while**
- **soon**

a 'in the near future' means _____

b 'at the present time' means _____

c 'in the event of' means _____

d 'during such time as' means _____

e 'until such time as' means _____

f 'on the part of' means _____

g 'due to the fact that' means _____

h 'not less than' means _____

Exercise 2

The following sentences use the formal expressions in Exercise 1. Below each sentence there is an alternative sentence that contains the same information. Complete the alternative sentences with a more modern word or expression from the blue box in Exercise 1.

a During such as time as this contract is in effect the parties agree to the following terms.

_____ this contract is in effect the parties agree to the following terms.

b In the event of breach the party in breach must provide a remedy within seven days.

_____ there is a breach of contract the party in breach must provide a remedy within seven days.

c This contract will continue until such time as one of the parties terminates it by giving four weeks' notice in writing.

This contract will continue _____ one of the parties terminates it by giving four weeks' notice in writing.

d Due to the fact that there was fire at the premises of Forum Marketing Ltd we cannot hold our meeting there next week.

_____ there was a fire at the premises of Forum Marketing Ltd we cannot hold our meeting there next week.

e The meeting cannot take place on Wednesday but it is important that we have it in the near future.

The meeting cannot take place on Wednesday but it is important that we have it _____.

f We cannot consider employing any more people at the present time, as we do not have enough work for them.

We cannot consider employing any more people _____, as we do not have enough work for them.

g Due to some very hard work on the part of employees the new business was very profitable in its first year of trading.

Due to some very hard work _____ employees the new business was very profitable in its first year of trading.

h A party who wishes to terminate this contract must give not less than four weeks' notice in writing.

A party who wishes to terminate this contract must give _____ four weeks' notice in writing.

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Help desk

What do these words mean?

in effect – in operation or in force. Valid.

trading – operating as a business.

notice – warning that something is going to happen in the future.

to take place – to happen, to occur.

a remedy – a solution for a breach of contract to make sure that the innocent party does not suffer from the breach.

Exercise 3

There are two important formal expressions that lawyers often use in contracts. These are:

- **notwithstanding**

Notwithstanding *means despite or in spite of* something. For example, 'The new law concerning the protection of the environment will come into force next year, notwithstanding a huge amount of opposition to it from industry'.

- **inasmuch as**

Inasmuch as *means that what you are saying in* the rest of your sentence is true only in a limited way or to a certain extent. For example, 'Caroline is a good lawyer inasmuch as she usually gets a good result in court. However, she is not very good at keeping up to date with important work'.

Use the correct expression, 'notwithstanding' or 'inasmuch as', in the following sentences.

a Some good has come from my uncle's death _____ he left a lot of money to a children's charity in his will.

b I agree to sign this contract _____ the fact that I have some doubts about your ability to deliver the goods to me on the due date.

c She was employed by one of the top law firms in London _____ her lack of experience.

d The judge in the Court of Appeal held that the court of first instance made a mistake _____ inadmissible evidence was taken into consideration.

Help desk

What do these words mean?

to come into force – to begin to have legal effect.

opposition to something – strong disagreement to something.

a top law firm – one of the most successful and well-known law firms.

lack of experience – only a little experience of something.

inadmissible evidence – evidence that for some reason cannot be presented in court.

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Exercise 4

Here are some more formal words that are very common in contracts. They are followed by a preposition. It is a good idea to learn the word together with the preposition. Match the words with the definitions.

a '**prior to**' means...	...depending on (1)
b '**subject to**' means...	...involved in, doing (2)
c '**engaged in**' means...	...named, called, mentioned (3)
d '**inclusive of**' means...	...before (4)
e '**referred to**' means...	...including (5)

Exercise 5

Put a word and its preposition from Exercise 4 into these sentences.

a Is the price of the goods _____ ___ tax?

b In this contract we will define you as 'the Company' in the defined terms section and that is how you will be _____ ___ every time you are mentioned later in the document.

c He worked in an office for many years but now he is _____ ___ running his own business in London.

d You haven't always worked here. What did you do _____ ___ working for this law firm?

e This holiday is offered at the price stated in our advertisement _____ ___ availability. We have a limited number of places available.

Help desk

What do these words mean?

to define – to say exactly what a word means.

defined terms section – the section of a contract where the parties agree exactly what particular words mean when those words appear in the contract.

running – operating.

availability – how many/much of a product that a company has that it can sell.

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UNDERSTANDING TECHNICAL WORDS

When a lawyer drafts a contract he or she will often use words that are very technical. In order to understand contracts you need to know the meaning of these technical words.

Exercise 1

Here are some words that are very common in contracts. They are all connected with buying and selling goods. Match the words with the definitions.

outlet (1)

retailer (2)

defective (3)

invoice (4)

manufacture (5)

sum (6)

a amount (of money)

b not working properly, faulty

c a list of goods or services that you have received, showing how much you have to pay for them

d a person or company who sells goods to the public

e a shop or company through which goods are sold

f make or produce goods to sell

Exercise 2

Complete these sentences with a word from the list in Exercise 1.

a He is a very successful businessman. He has a chain of more than 20 shops in cities and towns all over the south of England, including a large _____ in London.

b Have you received our _____? It states that you must pay for the goods within 28 days of delivery.

c We will have to return the computer to you because it is _____. It looked fine in the box but when we installed it, it wouldn't work properly.

d Mary is renting a factory unit on an industrial park. She has a new business that involves the _____ of products for beauty salons.

e £20,000 is a very large _____ to invest in a new business. I think you need to get legal advice before you decide to go ahead.

f That supermarket chain is the biggest food _____ in the United States.

Help desk

What do these words mean?

to invest – to put money into a business or put it into a bank account in order to make a profit.

go ahead – continue.

to install – to put a machine in the place that you want to use it and connect it to a power supply so that it is ready to use.

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Exercise 3

Jumbled words. Look at the definitions below. They are all definitions of formal words. The letters of the words that belong with each definition are mixed up. Put the letters in the correct order to spell the words. The first letter of each word is there for you.

Example: A word meaning to end something, especially something such as a contract. TERMINATE (**RATTEINEM**)

a A word that has the same meaning as duration. Lawyers use it to talk about the period for which a contract is valid. T_____ (**MRET**)

b Two words that mean to warn someone that something is about to happen. Often it means to warn someone that a contract is about to end. G_____ N_____ (**GVIE NITECO**)

c A very formal word meaning the ending of something. E_____ (**EXPRITIONA**)

d A noun that means obtaining or getting something. P_____ (**MENTCUREORP**)

e A formal word that means an accumulated total. A_____ (**AGATEREGG**)

f A formal word that means to promise to do something. U_____ (**TAKEUDERN**)

g A word that means to suffer something or to place yourself in a bad situation by your own actions with the result that you receive a punishment. I_____ (**CURNI**)

Exercise 4

Choose the correct word from Exercise 3 to complete these sentences.

a This offer will come to an end at the _____ of four weeks of the date of this letter. After that date it will not be possible to buy goods at this special price.

b The machinery that you hire under this contract will be available to you for not longer than an _____ of 12 weeks. If you wish to continue to hire the machinery after that you must sign a new agreement with us.

c The seller must _____ to insure the goods during transportation before we agree to buy them.

d Julia Davies signed the _____ contract, as she was responsible for obtaining office supplies for the government department.

e In writing this letter I formally _____ that I will end my employment with this company on 2 May.

f The _____ of this agreement is six months from the date of the parties signing it.

g She will probably _____ a fine because she left her car in a no-parking zone.

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UNDERSTANDING ARCHAIC TERMS

An archaic term is a word that people don't use in everyday speech because it is so old. However, lawyers sometimes use archaic terms in international contracts. This means that lawyers sometimes use English words that you can find in the plays of Shakespeare but that you will never hear people using in ordinary speech.

An important group of archaic words are those that begin with 'here', (for example, herein, hereby) and with 'there', (for example, thereon, therein). The text below will tell you something about these 'here' and 'there' words.

Exercise 1

Here is some important advice about understanding and using certain words that often appear in international contracts. Choose a word from the box below to complete the text.

- **legal**
- **archaic**
- **hereinafter**
- **mentioned**
- **clause**
- **preposition**
- **delete**
- **thereon**

There are words that some lawyers use that are not part of modern English language. Language specialists describe these words as (**a**) _____, meaning that they are no longer in common use. These are not technical, (**b**) _____ words, but words from general English. Some lawyers believe using these archaic words makes a document more serious. The more modern view is that they only make a document look old-fashioned.

The general advice these days from all modern legal writers and law firms is not to use them. Very often you can (**c**) _____ them without it having any effect on the meaning of the document at all. However, you will see these words in some documents so you need to understand them.

There is a particular category of archaic words that are very common in contracts. These are words starting with 'here' or 'there', followed by a (**d**) _____. Examples would be words like 'herein' or 'thereon'.

The 'here' words usually mean 'in this document' or, in a contract, it could mean 'in this (**e**) _____'.

The 'there' words refer to something that the writer (**f**) _____ before now.

For example:

- 'The persons (**g**) _____ named'.
  This means 'the people named later in this document'.

- 'The sum of money borrowed and the interest thereon shall be repaid in full on 5 June'.
  The word '(**h**) _____' here means 'on the sum of money borrowed'.

Some lawyers argue that these archaic words are more exact or precise than modern English. Modern language specialists and many leading law firms say that this is not true and for this reason archaic words are falling out of use in the UK.

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Exercise 2

Look at the definitions of the archaic terms below. Complete the sentences that follow with one of the archaic terms from the list. You will need to use each word only once.

- **Hereby** – by means of this document/with these words/with this action.
  'I *hereby* accept your offer.'
- **Herein** – in this document.
  'The price named *herein* is final and non-negotiable.'
- **Hereinafter** – starting from this time/later in this document.
  'ATL Electrics plc, *hereinafter* known as "the Company".'
- **Heretofore** – earlier in this document/previously/before the time of writing.
  'The property *heretofore* known as Downing House is renamed Appleby House.'
- **Hereunder** – in a later part of this document/under the terms of this agreement.
  'The terms and conditions are listed *hereunder*.'

a Royal Airlines Limited, _____ referred to as 'RAL'. (*later in this document*)

b The Author guarantees to the Publisher that the Work is _____ unpublished by any other company or individual. (*previously*)

c In consideration of the sum of £10,000, receipt of which the Seller _____ acknowledges. (*by means of this document*)

d Any products referred to _____ remain the property of the Supplier until the Customer pays for them in full. (*in this document*)

e In case of dispute between the parties, any arbitration conducted _____ will be conducted by Arbitrators Direct of London. (*under the terms of this contract*)

Help desk

What do these words mean?

in common use – something that people use often.

to delete something – to remove something from a piece of writing.

a category – a group of things that are of the same kind.

a leading law firm – one of the most important law firms.

non-negotiable – can't be changed, fixed.

to fall out of use – if something falls out of use it means that people don't use it any more.

to acknowledge receipt – to confirm that you have received something.

in full – completely.

arbitration – the process of a third party settling an argument or a legal problem without the matter going to court.

conducted – done, carried out.

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Exercise 3

Look at the definitions of some more archaic terms below. Complete the sentences that follow with one of the archaic terms from the list. You will need to use each word only once.

- **Thereby** – as a result of this or that action.
  'Your client signed the contract and *thereby* entered into a binding agreement.'
- **Therein** – in or into a particular place or thing/in that/in there.
  'The rented property and the furniture contained *therein*.'
- **Thereon** – on it/on there/on what I have just mentioned.
  'The amount borrowed and the interest due *thereon* must be repaid by 10 March 2010.'
- **Thereinafter** – later in that place or thing/later in what I have just mentioned.
  'We were defined in that contract as the Company and we were known as the Company *thereinafter*.'
- **Thereto** – to it, to the thing that I have just mentioned.
  'At the meeting we will discuss Mrs Jones' will and all matters related *thereto*.'

a He sold the company and _____ became a millionaire. (*as a result of that action*)

b I enclose a copy of the contract. Please return it to me together with any amendments _____. (*to the contract I have just mentioned*)

c The owner of the land and any person who wishes to claim an interest _____ should contact this firm of solicitors as soon as possible. (*in the land that I have just mentioned*)

d The defamatory story in the newspaper refers to my client in the first paragraph and refers to her _____ another four times in total. (*later in the thing that I have just mentioned*)

e The Buyer agrees to insure the painting and to pay any import tax due _____ upon delivery to the UK. (*on that particular thing*)

Exercise 4

There are certain archaic words that lawyers use in contracts to mean 'mentioned in an earlier part of this document'. These words are:

- 'said'
- 'aforementioned'
- 'aforesaid'
- 'the same'

Look at this typical example. The relevant parts of the sentences are highlighted.

'The **contract** between the claimant and the defendant was signed in August. **Said contract** was for the supply of goods.'

In this example the word 'said' is used to mean 'the contract that I have already mentioned'. The lawyer could have used the other words in the list to do the same. Alternatively, he or she could have just said 'It' or 'The contract':

'The **contract** between the claimant and the defendant was signed in August. **It** was for the supply of goods.'

continued

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When you see one of these archaic words in a contract you must look back in the document to find the noun that it refers to. Sometimes you are lucky and the noun that is being described is near the archaic word, as in our example. However, sometimes the noun and the archaic word are far apart and that makes things more difficult.

Look at the following examples. They are all from the terms and conditions of sale of a contract. In each example you will see one of the archaic words from the previous page. In each example underline the word or words that the archaic word refers to.

a Payment must be made upon delivery of the goods. The exception is where payment by invoice has been agreed. In the event of payment by invoice payment must be made within 30 days of receipt of the **same**.

b Where a specific delivery date has been agreed and **aforesaid** cannot be met the Buyer will have the option to receive a full refund.

c The goods shall be inspected by the Buyer upon delivery. All goods come with a delivery note. In the event that goods cannot be examined by the Buyer the **aforementioned** document shall be marked 'not examined'.

d Any defective goods must be returned to the Supplier. **Said** goods must be correctly packaged.

Help desk

What do these words mean?

comments – things that are written or said about someone or something.

exception – something that is not included in a general rule.

packaged – put into the correct box, bag or container for transporting or selling.

meet (met) an obligation – to fulfil an obligation. To do what you promised to do.

refund – the money that you get back from a shop or a supplier when you return goods.

option – a choice.

UNDERSTANDING SOME COMMON WORDS

Exercise 1

Look at the words and phrases in the blue box. They are all connected with a specific type of contract. Use the correct word to complete each definition on the next page.

- **In transit**
- **On board**
- **Carriage**
- **Copyright**
- **Staff**
- **hirer**
- **patent**
- **Import duty**
- **invention**
- **trademark**
- **Premises**
- **owner**

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a _____ are the buildings that a business uses.

b _____ is the legal right for someone such as a writer or a singer to publish his or her own work and to be sure that no one can copy or exploit it without permission.

c _____ is a type of tax that you have to pay when you bring certain goods into a country.

d _____ is moving goods from one place to another.

e _____ are all of the people who work for a particular business or organisation.

f A _____ is a symbol such as a word or a picture that a company puts onto its products to distinguish it from the products of its competitors.

g A _____ is an official document. The document protects a new invention, such as a new medicine or a new machine from being copied or exploited.

h _____ means in the process of being transported from one place to another.

i A _____ is a person or organisation that pays money to someone to use something for a certain period of time.

j An _____ is something new that someone has made or designed for the first time.

k _____ means placed on a plane, ship, lorry or a train.

l An _____ is a person or organisation that has the legal right to possess something. It belongs to them.

Exercise 2

Here are the words again. Each of the words and phrases in Exercise 1 are connected with a specific type of contract. Sort the words into the correct type of contract under the headings below.

A contract for the hire of a hotel for a company's conference	**A contract for the transport of goods by ship**	**A contract concerning a company's intellectual property rights**

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Exercise 3

Put the correct word or phrase from the ***contract for the hire of a hotel for a company's conference*** *into the following sentences.*

a The _____ of the hotel bought it last year from a large hotel chain.

b The _____ of the hotel conference room wants to book the room for three days in June.

c The hotel _____ are very big. In fact, it is probably the biggest hotel in the city.

d There are over 200 _____ working in the hotel.

Exercise 4

Put the correct word or phrase from the ***contract for the transport of goods by ship*** *into the following sentences.*

a The goods were put _____ the ship in Liverpool and the buyer will unload them in Sydney.

b The cost of _____ is £600.

c The buyer agrees to pay any _____ that the customs authorities demand when the goods arrive in Australia.

d The goods are _____. They are on a ship somewhere between England and Australia.

Exercise 5

Put the correct word or phrase from the ***contract concerning a company's intellectual property rights*** *into the following sentences.*

a The computer was a new _____ in the twentieth century.

b The publishing company and not the author has _____ in the book.

c If you invent something new it is important to register a _____. You will get a document that protects your right to produce and sell your invention.

d The _____ of the Victoria Bennett Jeans Company is the letters VB with a gold circle around them.

Help desk

What do these words mean?

a conference – a large meeting where people discuss important matters, especially business matters.

a hotel chain – a group of hotels that all have the same owner.

to book something – to say that you want to reserve something to use in the future such as a car or a hotel room.

customs authorities – a government department that collects tax on goods that people bring into the country.

an author – a person who writes books.

intellectual property rights – a person's rights in something that they have invented or created. No one else has the right to make, sell, copy or exploit the invention or creation without permission.

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THE STRUCTURE OF A CONTRACT

Read the following text about the structure of a contract. The most important words are in the key vocabulary below. Then complete the exercises that follow.

Key vocabulary

- **drafts**
- **parties**
- **key obligations/ duties**
- **delivery of goods/services**
- **drafting checklist**
- **template**
- **precedent bank/library**
- **to draft 'from scratch'**
- **recitals**
- **definitions section**
- **precedent**

A contract has a logical structure. Some lawyers say that a well-written contract is like a story because it explains the agreement from the beginning to the end in a way that a reader can clearly understand. When a modern lawyer **drafts** a contract he or she is following a tradition that has developed over many years. Let's look at the first half of a commercial contract. Most commercial contracts begin with the following sections:

- the **parties** – the people or companies who are entering into the contract
- the **recitals** – the background to the contract and the reason(s) why the parties are entering into the contract
- the **definitions section** – how certain words must be interpreted when they are used in the contract
- the **key obligations/duties** – the most important things that each party agrees to do
- the **delivery of goods/services** – the time when the key obligations will be carried out and where they will be carried out.

However, a lawyer who is drafting a contract doesn't often begin with a blank page. A lawyer would call this **to draft 'from scratch'**. Most modern contracts are not drafted from scratch but are based on a **precedent**. A precedent is an existing contract that a lawyer can use as a model for drafting another, similar agreement. A precedent also acts as a useful **drafting checklist** to make sure that everything necessary is included. Most law firms have a **precedent bank** or **precedent library** as part of the word processing facility on the company computer, or they rely on an encyclopaedia of precedents. The precedents are regularly updated, particularly when the relevant law changes.

A precedent can also be referred to as a **template**, but this is a more general word for something that you can copy. It is not so specific to contract law as a 'precedent'. Remember, a contract precedent should not be confused with the other meaning of the word precedent, which is the decision of a judge in common law that is used as a general principle of law.

Help desk

What do these words mean?

a key obligation – an important obligation.

carried out – done, performed.

a blank page – a page with no writing on it.

current – existing now.

a checklist – a list to help you make sure that everything necessary is done.

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Exercise 1

Here are some questions about the words in the key vocabulary. Match the questions with the answers provided.

a What is a contract **precedent**?

b What does '**to draft**' mean?

c Who are the **parties to a contract**?

d What does the **recitals** section of a contract contain?

e Why does a contract contain a **definitions** section?

f What does to draft a contract '**from scratch**' mean?

g What is the other meaning of the word **precedent**?

They are the people or companies who are entering into the agreement. (1)

It is a model contract that already exists. A lawyer can use it when he or she has to draft a similar contract. (2)

Because it specifies the exact meanings of words. Both parties (and maybe a court) must be sure how particular words are interpreted in the contract. (3)

It is another word meaning 'to write'. (4)

It means to write a contract from the very beginning without the help of a precedent. (5)

The decision of a judge that forms part of the common law. (6)

This part of the contract contains background information and explains why the parties are entering into the contract. (7)

Exercise 2

Here is a list of different sections that you will find in the first half of a commercial contract. Match each section of the contract with the correct extract below.

- **the delivery of goods/services**
- **the key obligations**
- **the parties**
- **the recitals**
- **the definitions/ defined terms**

a 'Goods' means any goods or services that are ordered from ABC Printing Ltd and includes any materials incorporated in them.

This is from _____.

b This Agreement is made on this fifth day of March 20XX

between ALT ELECTRICS Ltd

and PARSONS MANUFACTURING Ltd

This is from _____.

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c The Work will be carried out on 5 May 20XX at the Buyer's address.

This is from _____.

d (1) The Buyer owns a shop.

(2) The Supplier is an experienced electrician.

(3) The Buyer's shop is in need of electrical modernisation and repair.

(4) The Supplier will carry out the electrical modernisation and repair to the shop upon the conditions set out in this agreement.

This is from _____.

e In consideration of the sum of £5000 the Supplier agrees to carry out the Work listed in Schedule A of this Agreement according to current UK standards as specified by the relevant legislation.

This is from _____.

Help desk

What do these words mean?

incorporated in – included in.

to carry something out – to do something.

set out – written or stated.

relevant legislation – the part of the general law of a country that the parties to a contract must obey in a particular situation.

Exercise 3

Put a word from the text about the structure of a contract in Exercise 1 into these sentences.

a The people or companies who are entering into an agreement are called the _____ to the agreement.

b Lawyers rarely have to draft a contract from _____ as they usually have a precedent that they can use as a template.

c The section of a contract that gives the background to the contract and the reasons why the parties are entering into the agreement is called the _____.

d Most law firms have a collection of precedents that they refer to as a precedent _____ or a precedent library.

e The section of the contract that deals with _____ of goods or services usually states exactly when the key obligations will be carried out.

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UNIT 6A VOCABULARY CHECK

These are the important words that you have studied in Unit 6A. You should make sure that you know these words before you go on to Unit 6B.

aforemention*ed*
aforesaid
aggregate
arbitration
archaic term
availability

carriage
clause
compensation
contractor
copyright

defective
defined terms
definition
delivery
distributor
draft

engaged in
entitled to
expiration
extent

forthwith
from scratch

give notice

hereby
herein
hereinafter
heretofore
hereunder
hirer

import duty
in effect
in full
in transit
inadmissible
inasmuch as
inclusive of
incur
invoice

key obligations

manufacture

non-negotiable
notwithstanding

obligation
on board
option
outlet

patent
parties
precedent
premises
prior to
procure
procurement
property

real property
recitals
referred to
refund
remedy for breach
retailer

said
same
subject to
sum
supplier

take place
template
term
terminated
territory
thereby
therein
thereinafter
thereon
thereto
trademark
trading

undertake

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TOLES FOUNDATION EXAM PRACTICE

Exercise 1

Read the following pairs of sentences. For each pair of sentences there are two possibilities, A or B. Decide which sentence uses the correct preposition. Write your answers in the box below. There is an example at the beginning (*).

Example

(*) (A) The Company shall not be responsible for any of the Agent's costs and expenses.

(B) The Company shall not be responsible to any of the Agent's costs and expenses.

1 (A) All prices stated in the Agreement are inclusive of tax.

(B) All prices stated in the Agreement are inclusive with tax.

2 (A) The Company is engaged at the business of manufacturing electrical goods.

(B) The Company is engaged in the business of manufacturing electrical goods.

3 (A) The Buyer agrees to pay interest of any outstanding payment.

(B) The Buyer agrees to pay interest on any outstanding payment.

4 (A) The Company will pay the Employee's expenses subject to the Employee providing valid receipts.

(B) The Company will pay the Employee's expenses subject on the Employee providing valid receipts.

5 (A) JHS Manufacturing, hereinafter referred to as 'the Company'.

(B) JHS Manufacturing, hereinafter referred in as 'the Company'.

(*) A	(1)	(2)	(3)	(4)	(5)

Exercise 2

Look at this list of words. They are all nouns. Put the correct word into the following sentences. Write your answers in the boxes numbered 1–10 below. There is an example at the beginning (*).

(AA) distributor	**(C) invoice**	**(F) copyright**	**(I) term**
(A) recitals	**(D) expiration**	**(G) precedent**	**(J) duty**
(B) outlet	**(E) remedy**	**(H) premises**	

Example

(*) A person or company that supplies goods in a particular geographical area is often referred to in a contract as a (*) _____.

1 A (1) _____ is an existing contract that a lawyer can use as a model when drawing up a new contract.

2 Many written contracts refer to a (2) _____ for a breach. This is a solution that the party in breach can offer to the injured party to compensate him or her for the effect of the breach.

3 An (3) _____ is an itemised bill. Many contracts state what the penalty will be if it is not paid on time.

4 The (4) _____ section of a contract provides the background to the contract. It states why the parties are entering into the agreement.

5 A contract will often use the formal word (5) _____ to describe commercial land and buildings.

6 Contracts that deal with the export or import of goods usually have a clause that states which party will be liable for any import (6) _____ when the goods arrive in a foreign country.

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7 In contracts where creative work such as artwork or writing is sold, it is important to state which of the parties owns (7) _____ in the work.

8 A place that sells goods to the public is often referred to in a contract as a retail (8) _____.

9 The (9) _____ of a period of time is a very formal way of saying the end of that period of time.

10 The duration of a contract is usually referred to as the (10) _____ of the contract.

(*) AA	(1)	(2)	(3)	(4)	(5)
	(6)	(7)	(8)	(9)	(10)

Exercise 3

Read the text below. It is from a contract. Some of the words in the text are underlined. The meanings of these words appear in the list below, but they are not in the same order. Match the underlined words in the text with the correct meanings by writing the letters (A, B, C, etc.) in the box below. There is an example at the beginning (*).

FROM A PAYMENT CLAUSE

1.1 In (AA) consideration of the Goods (A) furnished under this (B) Agreement the Buyer agrees to pay the Seller the (C) sum stated in Schedule 1 to this Agreement.

1.2 Save as may be (D) set out in this Agreement the Buyer shall make payment in (E) sterling within 14 days of (F) receipt of invoice.

1.3 Interest shall (G) accrue on (H) overdue payments at the rate of 5.5% per annum above the base rate from time to time of The Royal Bank (I) in the event that payment is not received on the (J) due date.

(*) AA	what the parties exchange under the contract; in exchange for something
	contract
	amount of money
	receiving
	written, specified
	the currency of the United Kingdom; pounds
	agreed date when something must be done
	grow, accumulate
	provided
	late
	if

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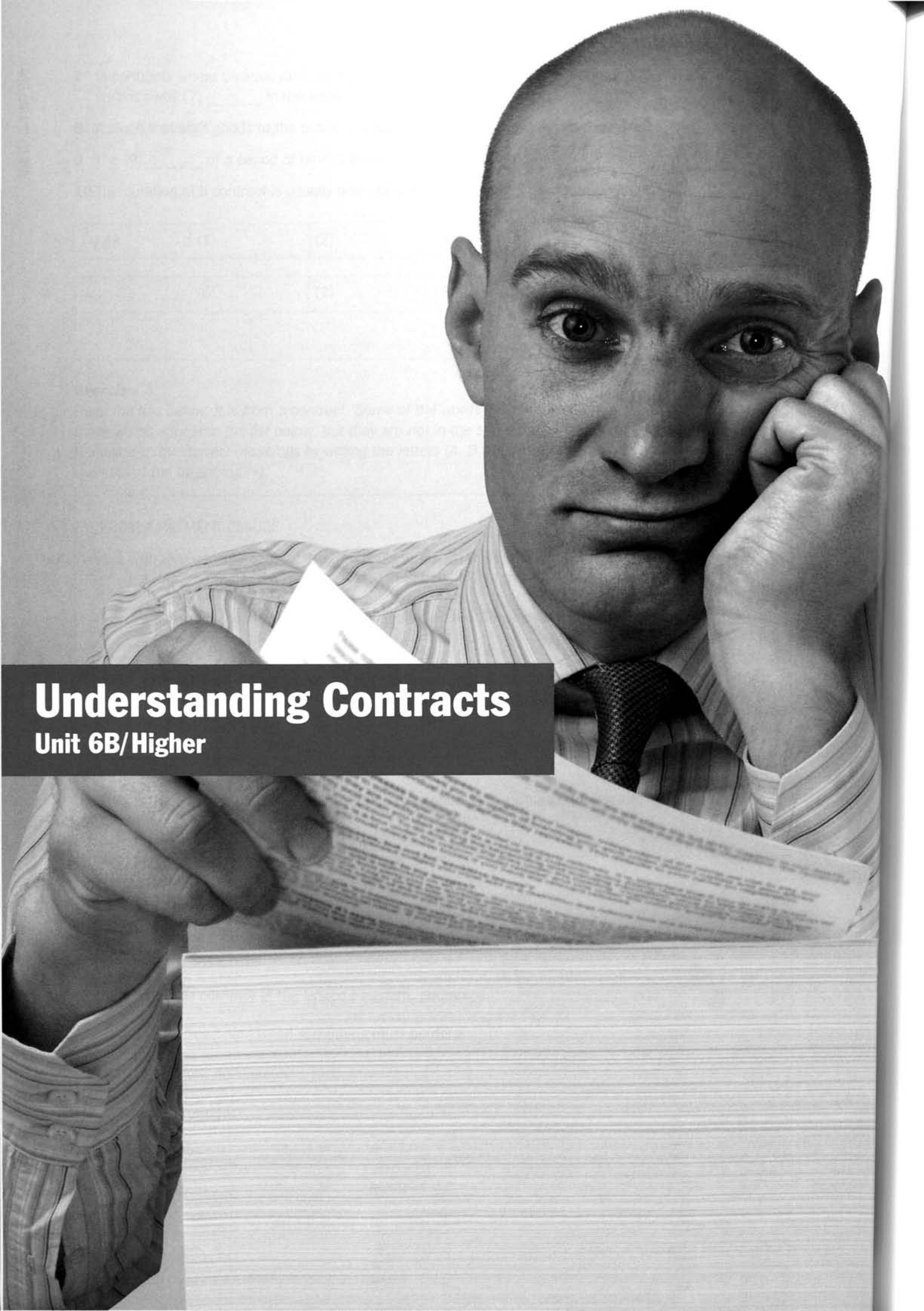

Understanding Contracts

Unit 6B/Higher

UNDERSTANDING CONTRACTS 1

THE DIFFERENT PARTS OF A WRITTEN CONTRACT

Exercise 1

Here are six headings that are used by lawyers to describe different parts of a contract. Match the descriptions below with the correct heading.

- **the delivery of goods/services**
- **the key obligations**
- **the parties**
- **the defined terms**
- **the recitals**
- **a schedule**

a The part of a contract that sets out the most important things that the parties have agreed to do under the contract.

The heading is _____

b The part of a contract that gives the background information to the contract. It often states why the parties are entering into an agreement.

The heading is _____

c The part of the contract that gives a precise explanation of how the parties will interpret certain words used in the contract.

The heading is _____

d An extra document that is attached to the contract giving information that is too detailed to be included in the body of the contract.

The heading is _____

e The part of the contract containing the names of the people or companies who are entering into the contract.

The heading is _____

f The part of the contract that gives a specific time and date for when certain obligations must be carried out. It might also specify where these obligations will be carried out.

The heading is _____

UK lawyers often refer to the parts of a contract as *clauses*. For example, 'I would like to suggest some amendments to clause 4 of this contract'. However, there are other words that lawyers often use in the same way:

- section
- paragraph
- article

Internationally, lawyers use the words as synonyms – they all have the same meaning.

- 'Can I draw your attention to *section* 5'
- 'If we can just look at *paragraph* 5 for a moment'
- 'If you wouldn't mind looking at *clause* 5'
- 'Let's look at *article* 5'

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PARTIES AND RECITALS

You need to know about...

Parties

A contract will always name the parties to the agreement. It is necessary to identify the parties so that everyone concerned is sure who the agreement is between. The addresses of the parties are usually included. This is important in case you want to serve a notice on the other party. With a company it is usual to give the address of its registered office, which is often not the same as the business address.

Recitals

Most contracts include a recitals section, although many lawyers say it is not absolutely necessary. The recitals give the background information to the contract. It is useful because it usually says why the parties are entering into the contract. The recitals often start with the word WHEREAS and in some contracts every sentence in the recitals will begin with the word WHEREAS. It is a very old-fashioned word meaning something like 'Taking the following facts into consideration' or 'The situation is as follows'.

Exercise 1

Read the following extract from a contract. Complete each gap with the correct word from the blue box below.

This AGREEMENT is made on this third day of April 20XX

between

CLADDAGH FURNITURE & DÉCOR Ltd a company incorporated in Ireland under number 1000576 having its registered office at 30 King Charles Crescent, Galway City, Republic of Ireland hereinafter (**a**) _____ to as 'the Supplier', (**b**) _____

ALL THINGS IRISH Ltd a company incorporated in England under number 2297103 having its registered office at 1 Montgomery Square, Birmingham, England hereinafter referred to as 'the (**c**) _____'

RECITALS

WHEREAS the Supplier is (**d**) _____ in the manufacture and distribution of handmade furniture and various other household goods for sale and distribution to retailers

WHEREAS the Buyer is a (**e**) _____ who operates a chain of retail outlets around the UK and wishes to purchase a selection of furniture and other goods from the Supplier for sale to the public via said outlets

WHEREAS the Supplier agrees to supply specified furniture and other goods to the Buyer (**f**) _____ to the terms and conditions set out in this Agreement.

- **referred**
- **subject**
- **retailer**
- **engaged**
- **and**
- **Buyer**

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Exercise 2

A client has telephoned you to ask for an explanation of some of the words in the extract in Exercise 1. Match the highlighted word or phrase with the definitions provided.

(*) **Incorporated** means...	...people or companies who sell things in their shops directly to the public. (1)
a **Hereinafter** means...	...written. (2)
b **Manufacture** means...	...runs or manages a business. (3)
c **Retailers** are...	...a number of shops or offices run by the same business or company. (4)
d **Operates** means...	...to be formed into a registered company.
e A **chain** is a...	...later in this document. (5)
f **Outlets** are...	...to make or produce something. (6)
g **Said** means...	...somewhere where goods or services are sold, such as shops. (7)
h **Set out** means...	...already mentioned. (8)

Exercise 3

Here is another introduction to a contract. It is very similar to the example that you saw in Exercise 1. Fill each gap in the text with the correct preposition from the blue box below.

This AGREEMENT is made (**a**) _____ this eleventh day of August 20XX

between

COMPUHIRE Ltd a company incorporated (**b**) _____ England under number 9998113 having its registered office (**c**) _____ 55 Maple Court Lane, Manchester, England hereinafter referred to as 'the Owner' and

ONLINE COUNTRY GIFTS Ltd a company incorporated in England under number 7890123 having its registered office at 60 Vale Arbour, Birmingham, England hereinafter referred to as 'the Hirer'

RECITALS

WHEREAS the Owner is engaged in the hire and maintenance (**d**) _____ office computer systems to online business operations

WHEREAS the Hirer is a business which operates an online gift purchasing facility for use (**e**) _____ the general public

WHEREAS the Owner agrees to supply specified computer hire and maintenance services to the Hirer subject (**f**) _____ the terms and conditions set out in this Agreement.

on **of** **at** **to** **in** **by**

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Exercise 4

Complete the following introduction to a contract using the information from the blue box.

- **DATE:** 19/07/20XX
- **PARTIES:** BPP Distribution Ltd (known as the Distributor), company number 3456789 and The English Educational Press Ltd (known as the Publisher), company number 6789012

This AGREEMENT is made on this (**a**) _____ day of (**b**) _____ 20XX

between

(**c**) _____ a company incorporated in England under number

(**d**) _____ having its registered office at 15 Regent Street, Liverpool, England

hereinafter referred to as 'the Distributor' and (**e**) _____ a company

incorporated in England under number (**f**) _____ having its registered office at

Princess Diana House, York, England hereinafter referred to as 'the (**g**) _____'.

RECITALS

WHEREAS the Distributor is engaged in the distribution of academic and educational textbooks for sale and distribution to schools, universities and other educational establishments.

WHEREAS the Publisher produces academic and educational textbooks for use in educational establishments within the United Kingdom.

WHEREAS the Distributor agrees to distribute specified titles to educational establishments subject to the terms and conditions set out in this Agreement.

Exercise 5

Complete the following sentences with a word or words that you have seen in Exercises 1–4.

a The company was incorporated in 2006 and has its _____ office at 10 Admiralty Square, London.

b The Distributor agrees to the terms and conditions _____ in this agreement.

c COMPUHIRE is _____ known as 'the Owner'.

d He runs a _____ of 15 retail outlets in the south of England.

e In the recitals section of a contract you often see at least one sentence beginning with the word _____.

f The Hirer is _____ in the business of the distribution of educational textbooks.

Collocation bank

- to **serve** notice/a notice on someone
- the terms and conditions **set out** in an agreement
- to **enter into** a contract
- to **carry out** an obligation
- to **make** an agreement
- to **run/operate** a business
- to be **engaged in** a particular business/occupation

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Preposition bank

- the parties **to** an agreement/contract
  'Who are the parties **to** this contract?'
- subject **to** terms and conditions
  'The Company agrees to supply the Buyer with goods subject **to** the terms and conditions set out in this Agreement.'
- to suggest an amendment **to** a document
  'I suggest an amendment **to** clause 6.'
- to enter **into** a contract
  'Did you enter **into** this contract voluntarily?'
- an agreement **between** two parties
  'This agreement is **between** the Publisher and the Distributor.'
- to draw someone's attention **to** something
  'Can I draw your attention **to** what you said in your email?'

DEFINED TERMS

You need to know about...

This section of a contract usually comes after the parties and recitals. However, some contracts have this section at the end of the agreement. The purpose of this section of a contract is to give a precise definition of important words as they are used in that particular contract. It is important because the parties need to know for sure what words mean. For example, look at this very precise definition of the word 'Goods'.

> 'Goods' shall mean any goods or services that are the subject of the contract and shall include components and any part(s) of components supplied and any materials incorporated in them.'

You will see that it is different from the normal dictionary definition. That is because the parties have agreed on the meaning of the word 'Goods' in this particular contract.

A word or expression that has been defined is called a defined term. Often, a defined term is only one word, for example 'Goods'. However, a defined term may be made up of more than one word, for example, 'Final Repayment Date'. In the definitions section, each word of the defined term must be given a capital letter, as in our example. Then, every time a defined term is used in the contract it also starts with a capital letter. This is to remind anyone reading the contract that these words are defined and have a special meaning. The first time a defined word is used it is put in inverted commas like this, 'Goods' means.... After the first time the defined term is used without inverted commas.

The section of the contract that begins after the recitals often begins with the words 'Now it is agreed as follows' or 'It is hereby agreed'. This means that the definitions section is the start of the legally binding part of the agreement.

Exercise 1

In the blue box there are four defined terms from a contract. Match each defined term with its definition below.

'Company' (1)

'Buyer' (2)

'Contract' (3)

'Goods' (4)

a the agreement dated 5 March 2007 entered into between the Company and the Buyer to supply goods/services to the Buyer.

b the person/company or the person's/company's servants or agents purchasing goods/services from the Company.

c any goods/services that are the subject of this contract and shall include components and any part(s) of components supplied and any materials incorporated in them.

d THE ANNE HARTIS COOKIE COMPANY LTD, of 25 Station Lane, Cuthbert Road, Durham DH15 8HK.

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Exercise 2

Exercise 1 contained the following definition:

'Buyer' means the person/company or the person's/company's servants or agents purchasing goods/services from the Company

What do the words 'servant' or 'agent' mean when used in this way?

In the case of *Malcolm v University of Oxford (2002)* the Court of Appeal spoke about the meaning of these two words.

> From *Malcolm v University of Oxford (2002)*
> 'The term "servant" means an employee under a contract of service. The term "agent" means a person entrusted with the fulfilment of a role or performance of a task on behalf of his principal, usually involving or affecting the legal relations of the principal with a third party.'

Here is a simplified version of the judge's explanation. Complete the explanation of what 'servant' and 'agent' mean by filling the gaps in the text with a word from the box below.

The word (**a**) '_____' means an employee who has a contract of employment with your company. A good example of the legal meaning of the word 'servant' would be a 'servant' of a university. This would include any (**b**) _____ who has a contract to work for the university but *not*, for example, a visiting (**c**) _____ who was paid a fee to give a talk to the students.

The word (**d**) _____ means a person who the party to the contract, known as the (**e**) _____ or the master, trusts to act on his behalf when dealing with a third party.

- **professor**
- **principal**
- **servant**
- **agent**
- **employee**

Exercise 3

Here is the definitions section from another contract. Fill each gap with the correct preposition from the blue box below.

(**a**) _____ these terms and conditions the following words shall have the following meanings:

'the Supplier' means Peterson Electrics Ltd trading under the title appearing on any invoice

(**b**) _____ the Goods

'the Goods' means any product, articles or things supplied by or subject to negotiations for supply

(**c**) _____ the Supplier (**d**) _____ the Buyer

'the Buyer' means any corporate entity, firm or person to whom the Supplier supplies or

(**e**) _____ whom the Supplier enters negotiations for the supply (**f**) _____ Goods.

- **In**
- **for**
- **to**
- **of**
- **by**
- **with**

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Exercise 4

Look at this information from the definitions section of another contract. The information refers to how certain words in the contract will be interpreted. This is common to many commercial contracts. Match each piece of information with the correct explanation given below.

In these conditions, unless a contrary intention appears:

a reference to the singular includes a reference to the plural and vice versa

b reference to a gender includes a reference to the opposite gender

c reference to a party includes a reference to its servants and agents

d headings are used for the purpose of reference only and do not form part of these conditions.

☐ If the word he/him/man is used in this contract, that word also means she/her/woman. (1)

☐ If the contract refers to one of something, such as a *component* of a machine, that word includes *components* – the contract doesn't need to use both words each time that term is used. (2)

☐ The title of a contract clause, for example, *payment terms* or *termination* is not included as part of the terms and conditions of the contract. (3)

☐ Every time one of the parties to the contract is mentioned, for example, *the Company*, the name of that party will be understood to include all of that party's employees. (4)

Collocation bank

- to provide a **precise definition** of a word

Preposition bank

- to be the subject **of** a contract
  'Goods shall mean the goods that are the subject **of** any contract between the parties.'
- to refer **to** something
  'Where the masculine is referred **to** in this contract it shall include the feminine.'
- to supply goods/services **to** someone
  'Our company supplies electricity **to** the London area.'
- to be a person who is **under** a contract of employment/service
  'He is **under** a contract of employment to a big recording company in Los Angeles for the next six months.'
- to work **for** a company or organisation
  'I work **for** an international law firm in Hong Kong.'
- to act **on** behalf of someone else
  'Any servant or agent who is authorised to act **on** behalf of the principal.'
- to trade **under** a particular name
  'That company went out of business last year but they are now trading **under** a new name.'
- goods/services supplied **by** a company
  'Any goods supplied **by** your company must meet European Union safety regulations.'
- to be subject **to** something
  'The price of the Goods is not subject **to** negotiation.'
- to be entrusted **with** doing something or dealing with a person
  'I am entrusting you **with** a very important new client.'

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Exercise 5

Look at the text below. It is from the definitions section of a procurement contract. Procurement contracts are usually used by governments or large corporations to buy the things that they need from outside companies. Read the text and explain the meaning of the underlined words or phrases. You can use one word or a short sentence. There is an example at the beginning.

Terms and conditions of purchase

DEFINITIONS

1.1 'Buyer' shall mean the United Kingdom Department of Health, their servants or (*) agents.

1.2 'Seller' shall mean the person, firm or company (**a**) issued with an Order and any (**b**) servants, agents or authorised sub-contractors of any such person, firm or company.

1.3 'Order' shall mean a purchase order as may be varied by a Change Order.

1.4 'Change Order' shall mean an order varying or cancelling an Order as described in clause 4 (**c**) hereof.

1.5 'Work' shall mean any equipment, goods or services or part thereof to be provided under the Order.

1.6 'Price' shall mean all (**d**) sums payable to the Seller for performance of the Work.

1.7 'Intellectual Property Rights' shall mean all copyright, all other rights in relation to registered and unregistered trademarks, inventions and all other rights resulting from intellectual activity in the industrial, scientific and artistic (**e**) fields.

(*) Agents are the people who are authorised to act on behalf of a principal. The principal is one of the parties to the contract.

a

b

c

d

e

Exercise 6

Complete the following sentences with a word or words that you have seen in Exercises 1–5.

a In these conditions, unless a _____ intention appears, a reference to the singular includes a reference to the plural.

b Any reference to the Company shall include all authorised sub-contractors, _____ or agents of the Company.

c Throughout this agreement _____ such as 'NOTICE' or 'TERMINATION' are for reference only and do not form part of the contract.

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d An agent usually works on behalf of one of the parties to the contract. This party is known as the agent's _____.

e She is an expert in her chosen _____ of law, which is the protection of intellectual property rights.

THE KEY OBLIGATIONS

You need to know about...

After the recitals and the defined terms there are clauses giving a detailed description of what each party promises to do. This part of the contract could be a short paragraph or it could be several pages and contain a very exact description. Depending on the type of contract it is, it might contain diagrams, drawings or graphs to explain the nature of the obligations more clearly. Additional information like this may be included here, although it is usually contained in attachments to the contract known as schedules.

Exercise 1

Here is the first clause from the key obligations section of a contract. It is a contract between a wine importing company and an exclusive hotel. The company wants to hold its New Year party for 1000 employees at the hotel. Match the underlined words from the clause with the meanings below.

> In consideration of the sum stated in paragraph 1 of the Schedule hereto to be paid by the Hirer to the Owner, the Hirer is hereby authorised to enter upon and use for the purpose only of holding a private social function between the hours and on the date set out in paragraph 2 of the Schedule hereto, the following rooms of the London Bridge Hotel together with the right of access thereto by the usual routes. The said rooms are hereinafter known as 'the Hired Premises':
>
> (i) The King Henry VIII Ballroom
>
> (ii) The Thames Cocktail Lounge
>
> (iii) The Westminster View Bar.

a A person who pays money in exchange for permission to use something for a certain period of time.

The word or phrase is _____

b A document attached to a contract. It forms part of the contract and contains specific information about what the parties are agreeing to do.

The word or phrase is _____

c Written or stated.

The word or phrase is _____

d A building or a part of a building that is used for something in particular.

The word or phrase is _____

e An amount of money.

The word or phrase is _____

continued

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f What the parties exchange under the contract, such as goods, services or money.

The word or phrase is _____

g To this contract.

The word or phrase is _____

h By this contract.

The word or phrase is _____

i Later in this document.

The word or phrase is _____

Exercise 2

Here is the clause again. Read it carefully using your answers from Exercise 1 to help you to understand it. Answer the questions that follow using a full sentence.

> In consideration of the sum stated in paragraph 1 of the Schedule hereto to be paid by the Hirer to the Owner, the Hirer is hereby authorised to enter upon and use for the purpose only of holding a private social function between the hours and on the date set out in paragraph 2 of the Schedule hereto, the following rooms of the London Bridge Hotel together with the right of access thereto by the usual routes. The said rooms are hereinafter known as 'the Hired Premises':
>
> (i) The King Henry VIII Ballroom
>
> (ii) The Thames Cocktail Lounge
>
> (iii) The Westminster View Bar.

a Why do the names of the parties have a capital letter whenever they are used in this contract?

_____

b What term has been given to the wine importing company in the definitions section of this contract?

_____

c What term has been given to the hotel in the definitions section of this contract?

_____

d Where should the Hirer look to find out how much the hire of the rooms in the hotel will cost?

_____

e What else does the Hirer have the right to use in addition to the three rooms that it has hired?

_____

f What term is used to describe the three rooms in later clauses of this contract?

_____

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Collocation bank

- to **hold** a party or an event somewhere

Preposition bank

- **in** consideration **of** something
  '**In** consideration **of** the sum specified in Schedule A.'
- to get to a place **by** a certain route
  'I get to London **by** the M1 Motorway.'
- **in** exchange **for** something
  'I will give you £1000 **in** exchange **for** your car.'
- to agree to do something/exchange something **under** a contract
  'You agreed to buy my car **under** the terms of our contract.'
- to do something **between** certain hours or days
  'You may use these rooms **between** 8pm and 2am.'

Exercise 3

Here are four short clauses from the same contract. Two of the clauses are obligations of the Owner and two are obligations of the Hirer. Put the clauses under the correct heading below.

a to ensure that during the aforesaid period of occupation the Hired Premises shall be heated and lighted by means of existing or additional heating and lighting apparatus.

b to deposit with the manager at least seven days prior to the execution of this agreement the sum of £1000 to be applied in case of any damage to the Hired Premises howsoever caused.

c at the expiration of the period of occupation to remove any property including that belonging to any servants or agents and to leave the Hired Premises in a clean and orderly condition.

d to have available on the Hired Premises adequate staff to serve the needs of the occupiers of the Hired Premises.

The Hirer undertakes as follows	The Owner undertakes as follows

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Exercise 4

Here are the clauses again. Match the highlighted words from the clauses with the definitions below.

- to ensure that during the **aforesaid** period of occupation the Hired Premises shall be heated and lighted by means of existing or additional heating and lighting apparatus.
- to **deposit** with the manager at least 7 days prior to the **execution** of this agreement the sum of £1000 to be **applied** in case of any damage to the Hired Premises **howsoever** caused.
- at the **expiration** of the period of occupation to remove any property including that belonging to any servants or agents and to leave the Hired Premises in a clean and orderly condition.
- to have available on the Hired Premises adequate staff to serve the needs of the occupiers of the Hired Premises.

a in any way

The word is _____

b performance/the parties carrying out their obligations

The word is _____

c already mentioned

The word is _____

d used

The word is _____

e end

The word is _____

f leave, put, give

The word is _____

Exercise 5

Look at this clause from a contract. It is from a contract between a business that offers a computer consultancy service and its customers. Read the clause and find the words that have the same meaning as the words listed below.

SERVICES PROVIDED BY TECH1 CONSULTING

During the Term of this Agreement TECH1 Consulting shall at the request of the Customer provide the following services for the aggregate number of hours specified in Schedule A:

1 provide a remote diagnosis service during Office Hours

2 visit the Customer's Premises to diagnose the exact nature and cause of malfunctions and advise as to the repair or replacement of defective equipment

3 advise as to the choice and procurement of new equipment inclusive of software

4 provide additional services at the extra charges specified in Schedule B

5 be available 350 days per annum and to notify the Customer in writing of any period of unavailability greater than 3 days.

a duration _____

b total _____

c faulty _____

d obtaining or purchase _____

e year _____

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Exercise 6

The contract clause in Exercise 5 contains eight words/names that are included in the defined terms section of the contract. Look at the clause carefully and the list the words that are defined terms.

a _____	**e** _____
b _____	**f** _____
c _____	**g** _____
d _____	**h** _____

Exercise 7

Here is another clause from the same contract. There are some prepositions missing. Read the clause carefully and fill each gap with the correct preposition.

CUSTOMER'S OBLIGATIONS

During the Term (**a**) _____ this Agreement the Customer shall:

1 make available to TECH1 Consulting free of any charge whatsoever any operating manuals, program information or any other technical information required (**b**) _____ TECH1 Consulting to perform its duties under this Agreement

2 provide TECH1 Consulting with adequate working space and facilities to enable it to carry out its duties under this Agreement without charge to TECH1 Consulting

3 where possible to provide TECH1 Consulting with staff familiar (**c**) _____ the Customer's programs databases and computer records in order to co-operate in the diagnosis of any malfunction or fault in the system.

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Exercise 8

Here are the two schedules mentioned in the contract. Some of the words are missing. Fill each gap in the schedules with the correct word from the blue box below.

- **payable**
- **reviewed**
- **Included**
- **Overnight**
- **increase**
- **Additional**

SCHEDULE A – MONTHLY CHARGES

The initial monthly charge for this contract is £450 (**a**) _____ monthly in advance. The charge table below will be (**b**) _____ annually. 30 days' notice of any (**c**) _____ in charges will be given.

Monthly Charge	£450	£500	£550	£600	£650	£700	£750	£800	£850
(**d**) ____ Hours	8	9	10	11	12	13	14	15	16

SCHEDULE B – (**e**) _____ CHARGES

On-Site	1st Hour	Office Hours	08:00 to 18:00	£120
On-Site	Additional Hours	Office Hours	08:00 to 18:00	£80
On-Site	1st Hour	Out of Office Hours	Week days	£150
On-Site	Additional Hours	Out of Office Hours	Week days	£75
On-Site	1st Hour	Weekend	Friday 18:01 Monday 07:59	£150
On-Site	Additional Hours	Weekend	Friday 18:01 Monday 07:59	£120
Early Morning	Telephone Support	per 30 minutes	06:00 to 0:800	£40
Office Hours	Telephone Support	1st 30 minutes	08:01 to 18:00	£25
Office Hours	Telephone Support	per additional 30 minutes	08:00 to 18:00	£20
Evening	Telephone Support	per 30 minutes	18:01 to 21:00	£40
(**f**) ____	Telephone Support	per 30 minutes	21:00 to 05:59	£80
Weekend	Telephone Support	per 30 minutes	18:00 to 20:59	£40

Collocation bank

- **defective** equipment or goods

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m

Preposition bank

- to do something **by** certain means
  'My house is heated **by** means of solar power.'
- to have/perform duties **under** an agreement/contract
  '**Under** the terms of this agreement you are obliged to give 14 days' notice of termination.'
- **during/throughout** the term of an agreement
  '**During** the Term of this agreement the Hirer will pay £450 per month.'
- to advise/enquire **as** to the reason for something
  'Can I enquire **as** to your reasons for starting litigation?'
- to be **on** the premises
  'How many people work **on** the premises?'
- to be inclusive **of** something
  'Is this price inclusive **of** tax?'
- to do something **in** writing
  'Either party may terminate this contract by giving 14 days' notice **in** writing.'
- the be the hirer **of** something
  'The Hirer **of** the equipment must pay a deposit.'
- pay for something **in** advance
  'I paid for the hotel conference room three months **in** advance.'

Exercise 9

Here is another example of some key obligations from a contract. It is a contract between a company and a builder who is going to do some maintenance work on the company's offices. Fill each gap in the clauses with the correct preposition from the blue box below.

1 COMMENCEMENT AND DURATION

(i) The Builder shall commence the Building Work (**a**) _____ 25 April 20XX.

(ii) The Builder shall complete the Building Work (**b**) _____ 20 December 20XX at the very latest or suffer the late completion penalty stated in Schedule B hereto.

2 THE BUILDING WORK

The Builder will carry out the Building Work specified in Schedule A hereto.

3 PRICE AND PAYMENT ARRANGEMENTS

(i) The Company shall pay the Builder the sum agreed in Schedule B hereto.

(ii) The Builder shall invoice the Company (**c**) _____ the end (**d**) _____ every quarterly period (**e**) _____ the Date of Commencement.(**f**) _____ no event shall any payment be made prior to the Date of Commencement.

(iii) The Company shall pay the Builder the amounts invoiced (**g**) _____ 30 days of receipt of the Builder's invoice.

- **on**
- **at**
- **by**
- **within**
- **of**
- **after**
- **In**

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Exercise 10

Complete the following sentences with a word or words that you have seen in Exercises 1 – 9.

a During the _____ of this agreement the Customer shall pay £500 per month to the Company.

b The building specifications for the Work are listed in _____ A hereto.

c In _____ of the sum stated in clause 8 below the Hirer is hereby authorised to use the Premises between 8pm and 1am.

d I am returning the goods to you because none of them work properly. Every computer that you provided is _____.

e Please _____ the sum of £300 at least seven days prior to the execution of this agreement. The sum is returnable if there is no damage to the premises at the end of the agreement.

DELIVERY OF GOODS OR SERVICES

You need to know about...

The agreed date of delivery of the goods or services in the contract is important for several reasons. These reasons include:

- the date sets a deadline for performance of contractual obligations. If one of the parties does not keep to the agreed date he or she will be in breach of contract
- the date sometimes decides when the legal ownership of goods passes from the seller to the buyer
- the date of delivery of the goods or services sometimes decides when the seller/supplier gets paid.

The delivery clause includes:

- **When** the goods or services will be delivered
- **When** they will be supplied (if it is necessary to state it)

and perhaps

- **What** will happen if the delivery clause is breached for any reason.

To make sure that the other party knows that the date/time of delivery is extremely important many business and commercial contracts contain a phrase like this:

'Time of delivery shall be of the essence in this agreement.'

If something is '**of the essence**' it is of the greatest importance.

Exercise 1

Here is a clause dealing with delivery. There are some words missing from the clause. Fill each gap in the clause with the correct word from the four choices on the opposite page.

The (*) _____ agree that all dates (**a**) _____ in this Agreement regarding delivery, completion and payment are a (**b**) _____ part of the Agreement. Failure by either party to (**c**) _____ with the dates shall amount to a fundamental breach of this Agreement. In the (**d**) _____ that either party agrees to a later date this will not entitle the defaulting party to consider that any subsequent date may also be delayed and such dates will remain of the (**e**) _____ in this Agreement.

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*	**A** parts	**B** traders	**C** parties	**D** people
a	**A** said	**B** made	**C** specified	**D** written
b	**A** significant	**B** principal	**C** material	**D** huge
c	**A** comply	**B** obey	**C** fulfil	**D** meet
d	**A** case	**B** situation	**C** event	**D** occasion
e	**A** importance	**B** key	**C** essence	**D** meaning

Exercise 2

Here is another clause dealing with delivery. It is from a shipping contract to transport goods from Ireland to England. Read the clause carefully and answer the questions that follow using a full sentence. One of the terms used in the clause is explained below to help you.

> 5. The carriage and transport of the Goods specified in Schedule 1 to this Agreement shall be free on board which shall mean that all costs of any nature whatsoever incurred in placing the Goods upon the Queen Of The Liffey shall be borne by the Seller. The Seller acknowledges that it will be liable for any and all export duty. Until such time as the Goods are loaded on board all property rights, risks and liabilities shall remain with the Seller.

- **free on board** is a term known as an 'Incoterm'. An Incoterm is a term used in international trade contracts and its meaning is internationally agreed. The term 'free on board' is only used in contracts for shipping. It means that the seller of the goods is liable for them until the moment the goods pass over the rail of the ship when they are being loaded. From the moment the goods pass over the rail they become the buyer's liability.

a Where in the contract will I find the list of goods that are being sold under this agreement?

b What is the name of the ship that is carrying the goods from Ireland to England?

c Who is responsible for the cost of transporting the goods from the factory where they are made to the ship?

d Who is liable for any taxes that must be paid when the goods leave Ireland?

e If the goods are dropped and some are broken when they are being removed from a lorry to be loaded onto the ship who will suffer the loss?

continued

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f If goods are dropped and some are broken a few moments after they are loaded onto the ship who will suffer the loss?

_____

Exercise 3

This clause also deals with delivery. However, it does not use the term 'free on board'. Fill each gap in the clause with the correct word from the blue box below.

(i) The (**a**) _____ shall only accept (**b**) _____ for non-delivery of any item listed in the delivery note and/or damage to the Goods caused in transit provided that written (**c**) _____ is provided to the Seller within 7 days of (**d**) _____ of the Goods by the Customer.

(ii) The Seller shall at its sole (**e**) _____ repair or replace the Goods lost or damaged prior to (**f**) _____ to the Customer.

- **Seller**
- **option**
- **delivery**
- **receipt**
- **liability**
- **notice**

Exercise 4

Here is another clause dealing with delivery. Fill each gap in the clause with the correct preposition from the blue box below.

The delivery date provided (**a**) _____ the Seller is (**b**) _____ guidance only and is subject to final confirmation by the Seller. Delivery times and/or dates shall not be (**c**) _____ the essence of the Agreement. The Seller shall not be liable for any loss or damage (**d**) _____ the Buyer arising (**e**) _____ late delivery or failure to deliver. The Buyer shall notify the Seller in writing (**f**) _____ 14 days of delivery of any claim in respect of deficit or damage in respect of the Goods that form the delivery.

- **by**
- **of**
- **from**
- **for**
- **to**
- **within**

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Exercise 5

Here is another clause dealing with delivery. Fill each gap in the clause with a phrase from the blue box.

1. The Company shall (**a**) _____ of transit including shipping costs, import/export duties, storage, customs duties, security checks and any other cost (**b**) _____ compliance with the laws of any country.
2. (**c**) _____ the Company fails to deliver the Goods in accordance with the terms of this Agreement the Customer shall have the right to terminate this Agreement forthwith in writing and no further obligations shall (**d**) _____ the Customer. In the event that this Agreement is terminated on the grounds of non-delivery the Company shall be liable to the Customer for all direct loss (**e**) _____ as a result.
3. The Company will replace free of charge any Goods proved to the satisfaction of the Company to have been damaged in transit provided that the Customer provides notification in writing of any such damage within (**f**) _____ of the Goods.

- **cover the costs**
- **be binding upon**
- **which arises from**
- **48 hours of receipt**
- **In the event that**
- **incurred by the Customer**

Exercise 6

Complete the following sentences with a word that you have seen in Exercises 1 – 5.

a Any costs incurred in the transport of the Goods will be _____ by the Seller.

b The Seller acknowledges that it will be _____ for any and all export duty.

c The Seller shall at its sole _____ repair or replace Goods lost or damaged prior to delivery to the Customer.

d The carriage and transport of the Goods by ship shall be free on _____.

e The Seller shall replace free of charge any Goods damaged in _____ provided that the Customer provides notification of any such damage in writing within three working days of receipt.

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Collocation bank

- to **set** a deadline
- to **perform** an obligation
- to **keep to** an agreement
- to be **in breach of** contract
- a **specified** date
- to **bear** a cost
- to **incur** a cost
- to **comply** with laws/regulations/rules
- to **load** goods onto a ship/plane/lorry

Preposition bank

- failure **by** either party to do something
  'Failure **by** either party to comply with this clause will result in termination of the contract.'
- to agree **to** something
  'The parties agree **to** the following terms and conditions.'
- transport **of** goods
  'Transport **of** all Goods specified in Schedule A will be by rail.'
- the costs incurred **in** doing something
  'Any costs incurred **in** importing the Goods will be borne by the Customer.'
- to be liable **for** something
  'The Supplier will not be liable **for** any loss caused by late delivery of the Goods.'
- to be **on** board a ship
  'The Goods will be transported **on** board The Pride of Norway.'
- damage caused to goods **in** transit
  'The Company will be liable for any damage caused to Goods **in** transit.'
- to be **for** guidance
  'This information does not form part of the contract but is **for** guidance only.'
- arising **from** an event
  'The Company will be liable for any direct loss arising **from** late delivery.'
- to do something **within** a certain time period
  'The Customer shall notify the Company of any damage to Goods **within** 48 hours of delivery.'

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USING YOUR KNOWLEDGE

Collocation review

Complete these sentences with a collocation that you have seen.

a The Owner agrees to supply Equipment to the Hirer subject to the terms and conditions _____ _____ in this Agreement.

b A commercial contract will usually provide one of the parties with an address at which any notices must be _____ upon the other party.

c Each party should think very carefully before _____ into a contract, as it will give rise to binding duties and obligations.

d Your client failed to _____ his obligations under the contract, in that he did not do as he promised.

e The electrical goods that you provided to my client did not work properly. As the whole batch of goods was _____, my client returned them to you without delay.

f My boss has _____ a very strict deadline to finish this work. He wants it on his desk by 5pm.

g Does this agreement _____ with contract law in your country? Or is it contrary to the law in some way?

h In clause 11 of this contract your client expressly agrees to _____ the cost of any duty that is required when the goods arrive in the USA.

i My client has _____ significant costs in transporting the goods to you, which he did not agree to do in the contract. My client requests that you reimburse these costs immediately.

j We have been informed that when the goods were being _____ onto the lorry at our factory, some of them were damaged. Please return these goods to us and we will replace them at once.

Vocabulary review

Complete these sentences with a word that you have seen.

a The _____ section of a contract provides the general background to the contract. Often each sentence in this section begins with the word 'WHEREAS'.

b A _____ is a person or company that sells goods directly to the public.

c You may see the word '_____' in a very formal contract. It does not have the usual, dictionary definition. When used in a formal contract, this word means 'employee'.

d An _____ is someone that the other party to the contract, known as a 'principal', authorises to act on his or her behalf.

e The money, goods or services that the parties exchange under a contract is referred to in the contract by the term _____.

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f When a written contract refers to the _____ of the agreement it means the duration of the agreement.

g In contracts where one party is providing a service to the other, there is often a reference to the _____ number of hours or days for which the service will last. This is a more formal way of referring to the total number.

h The verb to _____ is a more formal word that means 'to obtain' or 'to get'.

i If goods are described as being in _____ it means that the goods are in the process of being moved from one place to another.

j When a contract uses the phrase 'time is of the _____', it means that the time agreed for doing something under the contract is extremely important.

Preposition review

Complete these sentences with the correct preposition.

a This Agreement is made _____ this twentieth day of September 20XX.

b The Owner agrees to hire the Equipment to the Hirer subject _____ the terms and conditions set out in the Agreement.

c Who are the parties _____ this contract?

d Where the masculine is referred _____ in this contract it shall include the feminine.

e I work _____ a law firm that is based in London.

f What name does your company trade _____?

g An agent acts _____ behalf of his or her principal.

h Use of the Equipment is limited and may not be used _____ 8pm and 9pm each evening for maintenance reasons.

i _____ the terms of this Agreement the Hirer agrees to pay £600 per month to the Owner.

j The costs for the Work are specified _____ Schedule 1 hereto.

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TOLES HIGHER EXAM PRACTICE

Exercise 1

Read the following contract clause. The missing words are in the list below. For each gap choose the word which best fits into the space from the options provided. Use each option only once. Write your answers in the box below. There is an example at the beginning (*).

FROM A CLAUSE DEALING WITH THE DELIVERY OF GOODS

3.1 The Seller shall only accept (*) _____ for non-delivery of any item listed on the delivery note and/or damage caused to Goods in (1) _____ if the Customer provides written (2) _____ of any such non-delivery and/or damage to the Seller within 7 days of (3) _____ of the Goods.

3.2 In the event that the Seller accepts liability under clause 3.1 it shall at its sole option, repair or (4) _____ the Goods concerned which are proved to the Seller's satisfaction to have been lost or damaged (5) _____ to delivery to the Customer.

(AA) liability	**(B) transit**	**(D) receipt**
(A) replace	**(C) prior**	**(E) notice**

(*) AA	(1)	(2)	(3)	(4)	(5)

Exercise 2

Read the following contract clause. The missing prepositions are in the list below. For each gap choose the preposition which best fits into the space from the options provided. Use each option only once. Write your answers in the box below. There is an example at the beginning (*).

FROM A DEFINITIONS SECTION

(*) _____ this Agreement, the following terms and expressions shall have the following meanings:

'the Company' shall mean ARJ Computer Technology Ltd, which may from time to time act (1) _____ an authorised Agent.

'the Buyer' shall mean the person, firm, company or other organisation who or which has agreed (2) _____ purchase Equipment (3) _____ the Company.

'a Contract' shall mean a contract (4) _____ the sale and purchase of Equipment between the Company and the Buyer.

'Equipment' shall mean all items manufactured or supplied (5) _____ the Company including without limitation, instruments, computers, printers, and accessories/spare parts.

(AA) In	**(B) through**	**(D) to**
(A) by	**(C) from**	**(E) for**

(*) AA	(1)	(2)	(3)	(4)	(5)

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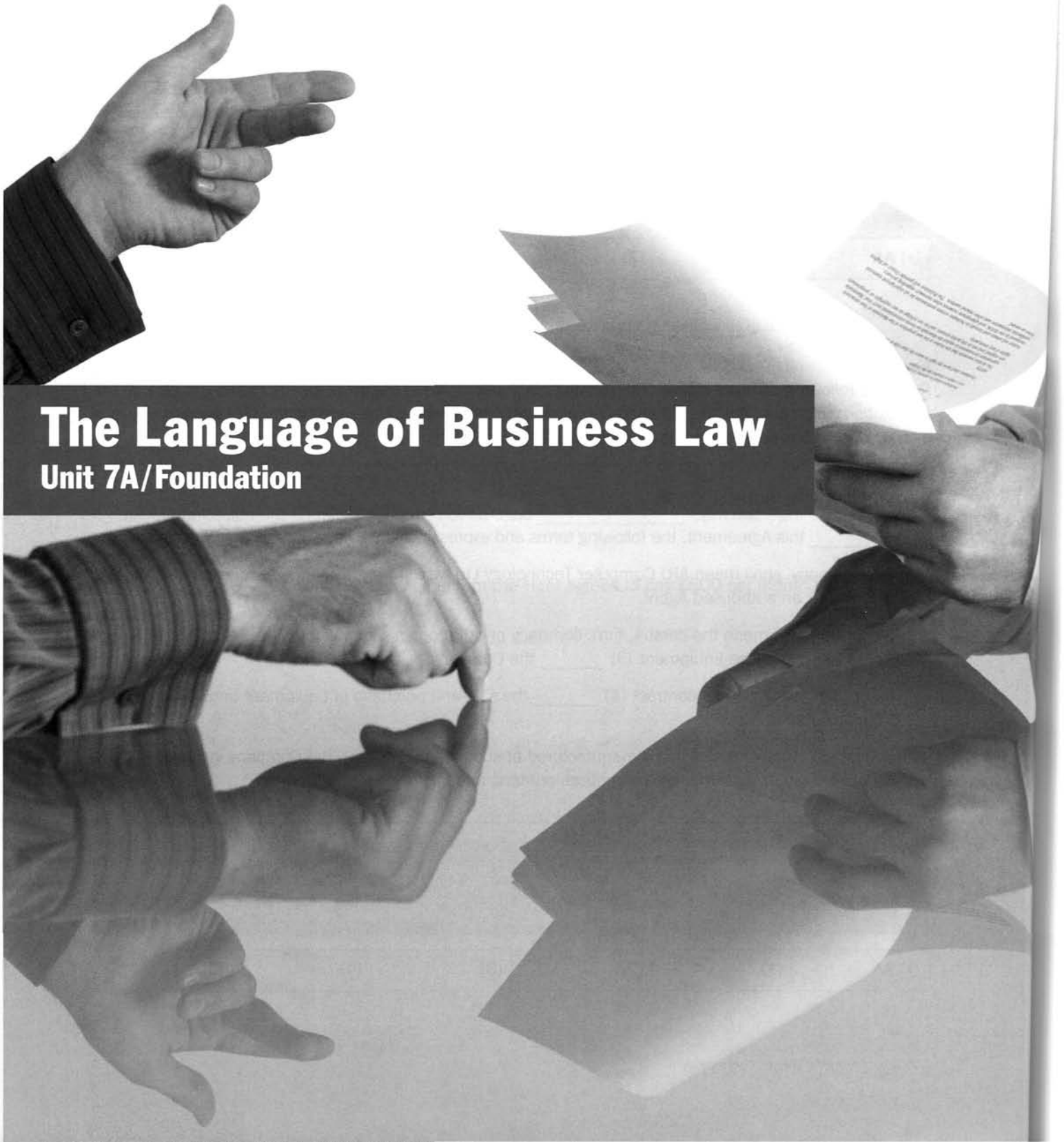

The Language of Business Law

Unit 7A/Foundation

THE LANGUAGE OF BUSINESS LAW

SOLE TRADERS

Exercise 1

Marie Stephens works for a local magazine in Chatsworth. The name of the magazine is Business Today. Marie is writing an article about the different ways in which people can start a new business. Marie went to the local advice centre to get some information about being a sole trader. The advice centre gave her this leaflet, which explains the main points. Look at the words that are highlighted in the leaflet. Without using a dictionary decide if each word or phrase is a verb/phrasal verb, a noun/compound noun or an adjective.

Sole Trader

Being a **sole trader** is the simplest way to **set up** and run a business and does not involve paying any registration fees. Keeping records and accounts is straightforward and you keep all of the **profit**. But you are **liable** for any debts that your business runs up, which can make this a risky **option** for businesses that need a lot of **investment**. This also means your home or other **assets** may be at risk if your business runs into trouble.

Setting up

- You need to **register** as **self-employed** with the authority which collects tax (HM Revenue & Customs).

Running your business

- You make all of the decisions on how to **manage** your business.
- You use your own money or assets to start the business, or borrow money from a bank or another lender.

Records and accounts

- You send an **annual** self-assessment form to HM Revenue & Customs.
- You must keep records showing your business income and **expenses**.

Profits

- You will keep all the profit you make.

Tax

- As you are self-employed your profits are taxed as income. You will pay income tax on this income.

Verb/phrasal verb	Noun/compound noun	Adjective

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Help desk

What do these words mean?

to run a business – to have control of a business and decide how you manage it.

a self-assessment form – a form that you complete and send to the tax authority. You give all of your financial details and calculate the amount of tax that you must pay. You do this yourself.

to run up a debt – to create a debt because you borrowed money or bought something on credit.

risky – a word to describe an activity or action that is dangerous or that may fail.

records and accounts – written details of all your business activities, especially the financial details of the income and outgoings of the business.

at risk – this means to be in a situation where something unpleasant may happen.

to run into trouble – to experience difficulties (often financial) that you did not expect.

income tax – the amount of your income that you have to pay to the government in tax.

Exercise 2

Here are the definitions of the words in Exercise 1. Fill each gap with the correct word from the box to complete the definitions.

sole trader	**liable**	**assets**	**annual**
set up	**option**	**register**	**expenses**
profit	**investment**	**manage**	**self-employed**

a An _____ is one of the available choices from several possibilities.

b Your _____ are the money that you must spend on the day-to-day costs of the business.

c An _____ is the amount of money that someone puts into a business with the aim of making that business successful and getting more money back.

d To _____ something means to start something or to create something, especially a business.

e A _____ is a person who owns and runs an unregistered business by himself or herself.

f To be _____ means not to have a boss. You organise your own work and people pay you for the goods or services that you provide. You are responsible for paying tax on the money you receive.

g Your _____ is the amount of money you get from selling something or providing a service to someone, after you deduct the costs of making that thing or providing that service.

h Your _____ are things that you own and which have a financial value, for example your house, your car or the money that you have in the bank.

i To be _____ for something means that you are legally responsible for that thing.

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j To _____ as something means to put your name on an official list for a particular purpose.

k To _____ a business means to have control of how you run that business.

l An _____ event is something that happens once every year.

Exercise 3

Marie Stephens talks to Eddie Anning, who is a car mechanic. Marie wants some information about working as a sole trader. Match Marie's questions with Eddie's answers to complete the conversation between Marie and Eddie. The first one is done for you as an example.

- How did you finance your business when you set it up? (1)
- Is the business profitable? (2)
- Did you have to register your business anywhere? (3)
- Can you tell me about your background?
- Did you get any professional advice from anyone? (4)
- What sort of business did you form? (5)

Example: Can you tell me about your background?

I did my apprenticeship with Bugler Cars. An apprenticeship is a period of training. After that I worked for Bugler for four years to get some experience. Then I decided that I could do the job on my own, so I set up my own business.

a _____?

I'm a sole trader. I wanted a business that I could manage myself without a lot of complicated rules and regulations. That's why I chose to be a sole trader.

b _____?

No. I didn't want to use lawyers or accountants because they cost so much. But I went to the local advice centre and they gave me some help at the beginning.

c _____?

No. But I had to tell the tax authorities what I was doing, of course. I have to send them an annual self-assessment form.

d _____?

I invested all of my savings and I took out a loan from the bank.

e _____?

The first year was really hard. I ran up a big overdraft because I had to pay the rent and other expenses. I didn't get much work in the first year. But I continued with it and things got better during the second year. This is my third year and finally my income is more than my expenses.

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PARTNERSHIPS

Exercise 1

Marie Stephens wants to write about partnerships in her magazine article. She found an Internet site called WorkforYourself.com and printed out the information she found on this site about partnerships. Read the information that Marie has printed out and decide in each case which is the correct preposition from the two possibilities.

http://WorkforYourself.com/partnerships/html

Advantages of partnerships:

- Two or more people can set up (*) **with/in** business together.
- This means that you may have more money to invest (**a**) **in/for** the business.
- Partnerships are easy to set up and flexible to run.
- Partners share the risks, costs and responsibilities (**b**) **to/of** running a business.

Disadvantages of partnerships:

- Problems can occur when there are disputes (**c**) **between/to** partners.
- Partners have unlimited liability (**d**) **to/for** the debts of the business.
- Partners have joint and several liability (**e**) **for/with** the partnership debts.

Our advice:

- It's a good idea to draw up a written partnership agreement, which clearly states how the partners will run the partnership and how the partners will share the profits. You should use a solicitor to do this.

Answers

Example (*) in **a** _____ **b** _____ **c** _____ **d** _____ **e** _____

Exercise 2

Match each of the following questions with the correct answer.

What does to invest mean? (1)

What does flexible mean? (2)

What does a dispute mean? (3)

What does unlimited liability mean? (4)

What does joint and several liability mean? (5)

What does to draw up mean? (6)

a It is another word that means a disagreement.

b It means to write. Another verb that lawyers often use is to draft.

c This means there is no restriction to your responsibility. You might lose your home or other personal assets if things go wrong.

d It means that something can change easily to adapt to different situations. Not fixed.

e It means to put money into a business, because you hope that you will get more money back in the future.

f This means that partners are responsible both individually and together as a group. In a situation where the partnership owes money to someone, that person can demand repayment of all that money from any of the partners individually, or he or she can ask each partner to pay a part of that money.

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Exercise 3

Marie went to visit a lawyer who specialises in setting up partnerships. The lawyer explained a little more about partnerships. The most important words are in the key vocabulary below. Read the text and answer the questions that follow using a full sentence.

Key vocabulary

- **trade under**
- **capital**
- **contribute**
- **loss**
- **proportion**
- **drawings**
- **management**
- **retire**
- **resign**
- **notice period**
- **expel**
- **dissolved**

'My name is Francesca Rodd and I draw up lots of partnership agreements for new businesses. It's not compulsory to have a partnership agreement but I always advise my clients to have one. I meet my clients and I ask them lots of questions about the partnership. First I need information about the partners and what name the partnership will **trade under**. That means the name that the partnership will use for its business. I also need details of the **capital** of the partnership. The capital is all the money, property and assets that the partnership has. Each partner has to decide how much money he or she is going to **contribute** to the partnership. Contribute means the same as invest.

Then I ask my clients about the profits of the partnership. Often the partners share the profits of the partnership equally, but sometimes partners get different shares of the profits depending on how much of the capital they contributed or how much work they do in the partnership. If the partnership makes a **loss**, which is the opposite of a profit, the losses are usually divided in the same **proportion** as the profits. Also, I need to know what amount of **drawings** each partner can have. Drawings is an advance payment of a partner's share of the profits. Each partner usually takes, or to use the correct term 'draws', this money out of the partnership bank account for his or her own use each month, rather than having to wait until the end of the year before receiving a share of the profits.

I have to know about the duties of each partner and any special responsibilities they have. I also ask about the **management** of the business, which is the way the partnership is run on a day-to-day basis. Partners must decide who has the authority to sign cheques for the partnership, pay bills, buy things for the partnership, etc.

My clients and I also talk about what will happen when partners leave the partnership, either because they **retire** or **resign**. In general, retirement is when a partner leaves the partnership because he or she reaches a certain age, for example 65 years old. Resignation is when a partner decides to leave for some other reason. The partners must decide on the **notice period** for resignation, in other words how many weeks' or months' warning a partner has to give to the other partners before he or she actually leaves the partnership.

I know it's horrible to think about things going wrong, but partners have to think about the reasons to **expel** a partner. To expel someone means to force that person to leave the partnership because he or she has done something really bad. Last, it's sensible to state the circumstances in which the partnership can be **dissolved**, or in other words, the partnership can end. Having a partnership agreement helps the partners to think carefully about the partnership from the beginning.'

a If people want to set up a partnership, what does Francesca Rodd advise them to have?

b What does to contribute money to the partnership mean?

c How do partners usually divide losses?

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d How often do partners usually draw money out of the partnership bank account for their own use?

_____

e Francesca mentions two ways that a partner can voluntarily leave the partnership. One is retirement. What is the other?

_____

f What is a notice period?

_____

g What does to expel someone mean?

_____

h What does to dissolve a partnership mean?

_____

Exercise 4

Read the text again and decide if these statements are true or false.

a	Every partnership must have a partnership agreement.	**True**	**False**
b	All of the partners always have to contribute the same amount of money to set up the partnership.	**True**	**False**
c	The partners usually pay for losses in the same proportion as they receive the profits.	**True**	**False**
d	The partners should decide who is responsible for the management of the partnership.	**True**	**False**
e	Retire is the same thing as resign.	**True**	**False**
f	Expel is the same thing as resign.	**True**	**False**

Exercise 5

Complete the following sentences with the correct words from the key vocabulary in Exercise 3.

a The partners agreed that they can each take out £600 every month as _____.

b When they set up the partnership, Mr Hicks decided to _____ £5000 and Mrs Pearson agreed to invest £3500.

c I prepared your accounts and you will see that the partnership did not perform well last year. It made a _____ of £15,000.

d I want to leave the partnership. What _____ must I give to the other partners?

e My birthday is in September and I will be 65 years old. I will then _____ from the partnership.

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f One of the partners often takes cocaine and other illegal drugs. This is a breach of the partnership agreement and provides clear grounds for the other partners to _____ him from the partnership.

g I must tell my partners that I want to _____ from the partnership. I went on holiday to Spain and met a man I wish to marry. I will move to Spain and join him in his business.

h The total _____ of the partnership is £405,000.

i Each partner has definite duties. For example, I am responsible for the computer system and Mr Brown is the partner responsible for the day-to-day _____ of the business.

j The business was unsuccessful and the partners _____ the partnership last year.

k The partnership will _____ the name of Fast Flowers.

l As each partner contributed different amounts of money to the business, the partners agreed to share the profits in the same _____ as the amounts that they invested.

Exercise 6

It is possible to have different types of partner. Look at the definitions of three types of partner below. The letters of the words that match each definition are mixed up. Put the letters in the correct order to spell the words. The first letter of each word is there for you.

a A partner who receives a share of the partnership profits and has the right to take part in the management of the partnership.

An **E**_____ (**TIQUEY**) partner

b A partner who receives a fixed amount of money each year, called a salary, paid in monthly instalments. This partner does not receive any more of the profits.

A **S**_____ (**DRASALIE**) partner

c A partner who contributes capital to the partnership but does not take part in the management of the business. He or she receives a share of the partnership profits. This partner is also known as a dormant partner or a silent partner.

A **S**_____ (**GEESPILN**) partner

Exercise 7

For each for the following people, decide which type of partner he or she is.

a **Sarah**: 'I'm a _____ partner. I specialise in employment law. The law firm offered me this position as this is the area of law that the firm wants to develop, but they want to see how good my work really is. I'm happy with that as I'm earning good money each month.'

b **Ken**: 'I am a _____ partner. I do not work full-time or make decisions for the partnership, but I expect to receive a large share of the profits. This is because I contributed most of the capital when we started this law firm.'

c **Bovin**: 'I am an _____ partner. I set up the partnership with two other people. We have full control of the management of the business and we share all the profits of the business.'

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A PARTNERSHIP AGREEMENT

Francesca Rodd has a detailed checklist to remind her about what she has to discuss with her clients when drawing up a new partnership agreement. Here are some of the points on the checklist:

- Names of partners
- Partnership name
- Capital contribution of partners
- Share of profits/losses
- Drawings
- Cheque signing arrangements
- Period of notice for resignation
- Retirement age

Exercise 1

These are some of the questions that Francesca asks her clients. The missing words are below each question. Put the words in the correct place to complete the question.

a What _____ the _____ _____ of _____ partner?

is **name** **each** **full**

b What name _____ _____ _____ _____ under?

will **trade** **the** **partnership**

c How _____ _____ will each _____ contribute _____ the partnership?

much **partner** **capital** **to**

d How _____ the partners _____ _____ profits or the _____?

losses **the** **will** **share**

e How _____ _____ each partner's _____ _____ be?

much **monthly** **will** **drawings**

f Who _____ have _____ _____ _____ partnership cheques?

will **sign** **to** **authority**

g How _____ _____ _____ notice _____ for resignation be?

period **long** **the** **will**

h What _____ the _____ _____ _____?

be **will** **age** **retirement**

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Exercise 2

Francesca meets two new clients who want to set up a partnership. Read what they say and then complete Francesca's checklist below.

'I'm Samantha Sully and this is my friend Kate Mace. We're both beauty therapists. We went to college together in Shoredon and worked together at Faces Beauty Salon, so we know each other well. We want to set up our own beauty salon in Chatsworth, called Revitalise. We want to make a lot of money and give up work when we are 55. Of course, I suppose one of us may meet the man of our dreams and go to live in Australia, so we may need to leave the partnership before we reach our retirement age – you never know! We agree that it's OK to leave the partnership if you tell the other partner three months in advance. We'll share everything 50:50. We'll both put in £2500 in the partnership so we can buy some equipment but we don't need much more than that. We each want to be able to take £500 each month from the partnership account. Either of us can sign cheques otherwise it will be difficult if one of us is away on holiday when we have to pay a bill.'

Checklist for a new partnership

a Names of partners: _____

b Partnership name: _____

c Capital contribution of each partner: _____

d Share of profits/losses: _____

e Drawings: _____

f Cheque signing arrangements: _____

g Period of notice for resignation: _____

h Retirement age: _____

Help desk

What do these words mean?

a beauty therapist – a person who is qualified to do beauty work, usually in a salon.

give up – to stop doing something.

put in – *contribute, invest.*

50:50 – half for each person.

otherwise – if not. This word is often used when there will be a bad result if something happens, or you do not do something. 'Go now, otherwise you will miss your train.

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LIMITED LIABILITY PARTNERSHIPS

Exercise 1

Marie Stephens then talked to Francesca Rodd about Francesca's law firm, Hedgsons. Marie asked if Hedgsons law firm is a partnership. Read what Francesca says. The most important words are in the key vocabulary below. Put the correct word or expression from the key vocabulary into the sentences that follow.

Key vocabulary

- **limited liability**
- **legal entity**
- **incorporated business**
- **limited liability partnership**
- **personal assets**
- **member**

'Hedgsons law firm is a partnership, but it is different from the partnership that I told you about earlier. Our law firm is what is called a **limited liability partnership**. In a traditional partnership each partner has unlimited liability for the partnership debts. But in a limited liability partnership that is not true. As the name suggests, the partners have **limited liability** for the debts of the business. That means that if the partnership owes a lot of money to someone but cannot pay, a partner will not have to use his or her own money to pay that debt. In other words, a partner's **personal assets** are not at risk. Personal assets are the things that someone owns, for example, a car, a house, and the money that he or she has in the bank. A limited liability partnership uses the capital of the partnership to pay the debts of the partnership.

When people want to set up a limited liability partnership, they must register it with our central registry of companies. The name of a limited liabilty partnership must end with the abbreviation LLP. When someone registers a limited liability partnership, it becomes what is known as an **incorporated business**. This means that the business is registered in its own name and has its own legal personality. We say that it is a **legal entity**. In other words, a limited liability partnership is a legal person like you or I.

A limited liability partnership has to supply its financial details and certain information about its partners to the registry of companies. Anyone can look at this information. In this way a limited liability partnership is different from a traditional partnership. Information about a traditional partnership is secret, but information about a limited liability partnership is not. A limited liability partnership must also follow more rules and regulations than a traditional partnership.

A limited liability partnership is taxed in the same way as a traditional partnership. Each partner, or **member** as we call them, must pay income tax on his or her share of the profits.

A limited liability partnership usually has a deed of partnership, which is similar to the partnership agreement in a traditional partnership. The deed of partnership contains details of the amount of money that each member will contribute to the partnership, each member's duties and what happens if a partner leaves the business.

A limited liability partnership is becoming a popular choice in situations where two or more people wish to set up a business together. This business structure is very popular at the moment, especially with people who set up a new law firm.'

a My name is Grace Harmen. I am a partner of Finneson & Edge LLP. LLP is the abbreviation for _____.

b I own a house, a car, and some jewellery. These things that belong to me are formally known as my _____.

c If things go wrong with the partnership, I won't lose any of my own money or belongings because I have the protection of _____.

d A limited liability partnership is an _____. Its name appears on the central register of companies and it exists as a separate legal person.

e I am a *legal person*, but an incorporated business is called a _____.

f In a limited liability partnership, a partner is also called a _____ of the partnership.

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Exercise 2

Complete the following sentences with the correct preposition. You can find the prepositions in Exercise 1.

a The members have limited liability _____ the debts of the business.

b If you have limited liability, it means that your personal assets are not _____ risk.

c Every year the partnership has to supply financial details _____ the central registry of companies.

d I have to pay income tax _____ my share of the profits of the business.

e In many ways a limited liability partnership is similar _____ a traditional partnership.

f The members each contributed £6000 _____ the partnership.

COMPANIES

Exercise 1

Marie Stephens wants some information about companies. She went to a seminar at a law firm called Taylor Wallis. A solicitor called Greg Harrison is talking about companies. Read what Greg says. The most important words are in the key vocabulary below. Complete the definitions of the words contained in the key vocabulary by matching the first half of each sentence with the correct ending.

Key vocabulary

- **incorporate**
- **founders**
- **members**
- **shareholders**
- **hold**
- **share**
- **share capital**
- **nominal value**
- **issue**
- **invest**
- **return**
- **dividend**

'When a person starts a new company, he or she must be very careful to comply with the rules. When lawyers talk about setting up a new company they use the expression 'to **incorporate** a company'. That means to set up and register a new company in the proper way. If you want to incorporate a company in England, you must register the company with Companies House, which is the central registry of companies. You cannot start to trade in the company's name until the company appears on the official register of companies. Every company has its own file at Companies House and anyone can look at the file to find out information about the company.

The people who set up a company are often called the **founders** of the company. When the founders set up a company and register it with Companies House, the company is known as an incorporated business. This means that the company has its own separate legal personality. Another name that means the same as legal personality is 'legal entity'. Sole traders and traditional partnerships are unincorporated businesses and do not have their own legal personality. If someone wants to sue a company, perhaps because it did not fulfil its obligations, the claimant names the company as the defendant, because a company is a legal entity. On the other hand, if someone wants to sue a sole trader, the claimant names the owner of the business as the defendant.

The owners of a company are called the **members**. Another name for members is **shareholders**. Shareholders can be people or companies. They own, or '**hold**' a **share** or shares in the company. A share is a part of the company's **share capital**. When we talk about share capital, we mean the amount and value of shares that the members hold. Let's say that a company has a share capital of £1000 and that this is divided into 1000 shares. In this example, each share has the value of £1. We call this the **nominal value** of each share. All the shares in a particular company have the same nominal value. When the founders set up a company, they decide upon the nominal value of the shares for that company.

When someone buys shares in a company, the company will **issue** the shares to him or her. To issue a share means to officially give that share to

continued

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a person and register his or her name in the company's register of shareholders. The shareholder receives a share certificate from the company giving details of the share or shares that he or she owns.

Why do people want to **invest** their money in a company and buy shares? The answer is that they hope to get some money back in return for allowing the company use their money. We call this 'a **return** on an investment'. If the company performs well during a year and makes a profit, then the company may decide to pay a part of that profit to the shareholders. This payment is called a **dividend**. If the company performs badly and makes a loss, the company will not pay a dividend to its shareholders.

If a company does really badly and becomes insolvent, that company may have to stop trading. But the shareholders will not have to pay the debts of the company, because the shareholders have the protection of limited liability. This means the shareholders may lose the money that they invested in the company, but their personal assets are not at risk.'

a To **incorporate** a business means...	...to own a share. (1)
b The **founders** of a company are...	...the people or companies which own shares in the company. (2)
c The **members** are...	...a payment of the company's profits to its shareholders. (3)
d The **shareholders** are...	...the people who create the company. (4)
e A **share** is...	...to put money into a company by buying shares in the company. (5)
f To **hold** a share means...	...the same as the members. They are the owners of the company. (6)
g **Share capital** refers to...	...to set up the business and register it as a company. (7)
h The **nominal value** of a share is...	...to officially give that share to someone so that he or she becomes the owner of that share. (8)
i To **issue** a share to someone means...	...the value of shares that the shareholders own. (9)
j To **invest** money in a company means...	...one of the equal parts of the company's capital. (10)
k A **return** on an investment is...	...the money that someone receives from their investment. (11)
l A **dividend** is...	...the fixed value of each share. (12)

Exercise 2

Read what Greg Harrison says again and answer the following questions using a full sentence.

a What does to incorporate a company mean?

Answer: _____

b Where are all companies in England registered?

Answer: _____

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c When can a new company begin to trade in the company's name?

Answer: _____

d What is another name for a legal personality?

Answer: _____

e What are the people called who own a company?

Answer: _____

f What is a dividend?

Answer: _____

g In general, why won't a shareholder have to use his or her own money to pay the debts of the company?

Answer: _____

Exercise 3

Decide if the following statements are true or false.

a	All of the information about a company at Companies House is available to the public.	**True**	**False**
b	Each company has its own legal personality.	**True**	**False**
c	A traditional partnership is a legal entity.	**True**	**False**
d	If you want to sue a company, you must name the shareholders as the defendants.	**True**	**False**
e	A company issues share certificates to its members.	**True**	**False**
f	Shareholders always receive a dividend each year.	**True**	**False**

Help desk

What do these words mean?

to **comply with** – to follow (the rules), to obey, to abide by.

to **name** someone – to write that person's or company's name on a document.

to **trade** – to do business with another person or company.

to **become insolvent** – to be unable to pay your debts at the time when you must pay them.

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Exercise 4

Greg Harrison now talks in more detail about the different sorts of share values and share capital values. Read what Greg says and match each of the questions in the blue box with the correct answer below.

'When you set up a company, you decide on the amount of share capital and what the **nominal value** of each share is. The nominal value is a fixed value, that doesn't change. The nominal value has two other names. These are the par value and the face value. All three names have the same meaning.

When you set up a company, you also have to decide on the maximum amount of share capital that the company can have. This is called the company's **authorised share capital**.

A company doesn't have to issue all of its authorised share capital as soon as it is incorporated. The company can issue some shares, leaving other shares unissued. At the time when the company is incorporated, it issues some shares to the first shareholders. The company can then issue more shares at a later date. The **issued share capital** is the value of the shares that the company has issued to shareholders. The issued share capital and the authorised share capital are expressed in the *nominal* value of the shares, and not the *actual* value of those shares. Let's say that a company has an authorised share capital of £1000. There are 1000 shares, each having a value of £1. Now let's say that the company issues 500 of these shares. In this case, the nominal value of each share is £1 and the issued share capital is £500. I want to buy some shares in the company. I pay £5 for each of my shares. The nominal value of each share is £1, but the actual amount that I pay is £5. This is called the **market value** of the share. The market value in this example is higher than the nominal value. The difference between the market value and the nominal value is called the **premium**. In this example, the premium is £4.'

What is the market value? (1)

What is the nominal value? (2)

What is the premium? (3)

What is authorised share capital? (4)

What is issued share capital? (5)

a This is the amount of money that someone must pay to the company when he or she buys a share.

b This is the amount of money that someone pays in excess of the nominal value.

c This is the maximum total value of shares, expressed in nominal terms, that the company is allowed to issue.

d This is the value of shares, expressed in nominal terms, that the company has actually issued to its shareholders.

e This is the value that the people who set up the company decided to fix for all of the shares of the company. It is easier to understand if you think of it as the official value, not the actual value.

Exercise 5

Kevin Hooper buys some shares in a company called Onephone plc. The share certificate says that the shares are £1 each. Kevin pays £4 for each share to Onephone plc. Complete the following sentences by writing the correct figure in each gap.

a The market value of each share is _____

b The nominal value of each share is _____

c The premium on each share is _____

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PUBLIC AND PRIVATE LIMITED COMPANIES

Exercise 1

Marie Stephens wants to include some information about companies in her magazine article. She looks at the website of law firm, Taylor Wallis. She prints off the following information about private limited companies and public limited companies. The most important words are in the key vocabulary below. Read the information and decide if the statements that follow are true or false.

Key vocabulary

- **private limited company**
- **public limited company**
- **stockbroker**
- **single-member company**

www.taylorwallis.co.uk/companies

Public and private limited companies

There are several different types of company in England, but the most common are the **private limited company** and the **public limited company**. The name of a private limited company must end with 'ltd' or 'limited' and a public limited company's name must end with 'plc'. This means that when you look at a company's name you can see immediately what type of company it is.

A private limited company cannot offer shares in the company to members of the public, but a public limited company can do this. Some people use the services of a **stockbroker** to buy and sell shares. A stockbroker is someone who buys and sells shares on behalf of his or her clients. A stockbroker only deals in shares of public limited companies. The law does not allow people to trade in shares of private limited companies through a stockbroker.

A private limited company can have any number of shareholders. However, it is very common to have a private limited company with just one shareholder. If a company has just one shareholder, the company is called a **single-member company**. A public limited company must have a minimum of two shareholders, but usually has a lot more. Another big difference between the two types of company is the amount of share capital that the companies must have in order to incorporate and register them. Someone may register a private limited company with a very small amount of share capital, maybe only £1. However, to register a public limited company it must have a substantial amount of share capital. This amount is decided by law. At the moment the minimum amount required is £50,000.

a	There are only two types of company in England.	**True**	**False**
b	A company which has the name of Lexton Metals Ltd is a private limited company.	**True**	**False**
c	A stockbroker buys and sells shares in private limited companies on behalf of his or her clients.	**True**	**False**
d	A single-member company has just one shareholder.	**True**	**False**
e	A public limited company can be a single-member company.	**True**	**False**
f	A public limited company must have a share capital of at least £50,000 at the time when someone registers it.	**True**	**False**

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Help desk

What do these words mean?

common – usual, happens frequently.

to **offer** shares – to invite people to buy shares in the company.

to **deal** – to trade, to buy and sell.

to **trade** – to do business, to buy and sell.

to **incorporate** a company – to form a registered company.

substantial – significant, large.

Exercise 2

A new client named Mr Patel telephoned Greg Harrison, the solicitor from Taylor Wallis. Mr Patel wants some advice about setting up a new business. However, Greg was not in his office and so Mr Patel left Greg a voicemail message. When Greg returned he listened to the message and made the following notes. Read the notes and from your knowledge of the different types of business structure, decide which of them Mr Patel can choose to set up.

Telephone attendance:

Date: 16 March 20XX

Name: Raj Patel (RP)

Address: 2 Cherryholt Road, Chatsworth, CH3 6GH

Telephone: 0771 669624

Mobile: 047987 5463471

Details

RP wants to set up a business. At the moment RP is working alone, but his brother will probably want to join the business at some time in the future. The business supplies computers and software to small businesses and advises the businesses on operating the systems. RP has capital of £25,000 to start the business. RP owns his house, but wants to make sure that if everything goes wrong, he will not lose the house. RP is married and has three children.

RP wants advice on what sort of business he should set up.

a	Sole trader	**Yes**	**No**
b	Partnership	**Yes**	**No**
c	Limited liability partnership	**Yes**	**No**
d	Private limited company	**Yes**	**No**
e	Public limited company	**Yes**	**No**

The next exercise gives you the answer to what type of business RP should set up.

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Exercise 3

Greg is writing to Mr Patel. Put the parts of the letter in the right order by writing your answers in the boxes numbered 2–10 below. There is an example at the beginning, which is the start of the letter.

Taylor Wallis
2 Main Street
Chatsworth
CH1 2FH

Mr R Patel
2 Cherryholt Road
Chatsworth
CH3 6GH

16 March 20XX

Ref: GH 408RP

(**a**) Setting up as a sole trader is certainly the easiest type of business. A sole trader is self-employed and this type of business does not have to be registered or comply with complicated rules, other than the obligation to pay tax.

(**b**) I look forward to hearing from you.

(**c**) I understand from this message that you wish to set up a business which supplies computers and software to small businesses and you would like some advice on what is the most appropriate structure for this new business.

(**d**) Dear Mr Patel

New computer consultancy business

(**e**) Therefore, in view of the fact that you are investing a substantial amount of money into the business, and more particularly that you wish your personal assets to be as safe as possible, I think the best option is for you to incorporate a private limited company. Your brother will be able to join the company at a later date.

(**f**) However, the main disadvantage is that as a sole trader you will have unlimited liability for all the debts of the business if it does not succeed in the way in which you hope. This means that you may have to sell your personal assets to pay the debts of the business.

(**g**) I will be very pleased to explain the procedure of incorporating a company to you. Please telephone me to arrange a convenient time to meet.

(**h**) Thank you for your telephone message regarding the formation of a new business.

(**i**) Yours sincerely

Greg Harrison

(**j**) As you are the only person involved in the business at present, there are two options available to you. One is to operate as a sole trader and the other is to incorporate a private limited company. Let me give you a little more detail about each option.

(1) d	(2)	(3)	(4)	(5)
(6)	(7)	(8)	(9)	(10)

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INCORPORATING A COMPANY

Exercise 1

Marie Stephens is finishing her magazine article. She wants to know how to set up a company. She found the following information about this on Taylor Wallis's website. The most important phrases are in the key vocabulary below. Put the correct phrases from the key vocabulary into the sentences on the next page.

Key vocabulary

- **memorandum of association**
- **annual return**
- **articles of association**
- **off-the-shelf company**
- **certificate of incorporation**

www.taylorwallis.co.uk/new companies

Incorporating a company

There are two very important documents that every company has. These are the **memorandum of association** and the **articles of association**. The memorandum of association sets out the essential information about the company. The articles of association contain the internal rules that the company and its shareholders must follow. These rules include, for example, notice periods for holding company meetings and procedures for selling company shares. The articles of association is a long and complicated document.

If you want to set up a company, you may choose to incorporate a completely new company. You need to draft the memorandum and articles of association for your company. You should ask your solicitor to do this. He or she will probably use a standard document as a model and then make any changes to the model that are necessary for your company. Your solicitor will file the memorandum and articles of association at Companies House, together with the other necessary documents. You must then wait until Companies House issues a **certificate of incorporation**. When you receive this certificate, which proves that the company is properly registered, your company can then start to trade under the company name.

Your other option is to buy an **off-the-shelf company** from a company formation agent. A company formation agent is a person or company which incorporates new companies and then sells each company to people who want to buy one. You can think of an off-the-shelf company as an empty company, which is set up and ready to trade. An off-the-shelf company is also called a shelf company.

With an off-the-shelf company, the company formation agent filed the memorandum and articles of association when he or she incorporated the company. The company has a certificate of incorporation and so it can start trading under the company name immediately.

After the company is registered, it has its own file at Companies House. Every year the company has to send a document called an **annual return** to Companies House. This gives up-to-date information about the company including details of its share capital and shareholders. The company also has to submit its financial accounts to Companies House. It has to send a profit and loss account and a balance sheet. These two documents give information on whether the company is making a profit or a loss. If a company makes a profit, it must pay corporation tax on that profit. All of the information at Companies House is available to the public, so anyone can see it.

For more details contact Greg Harrison at gharrison@taylorwallis.co.uk

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a We want to start trading as quickly as possible so we decided to buy an _____ company.

b If you want to see the rules of the company you must look at the _____.

c This is the company's _____. You must keep it safe as this shows that the company is properly set up and can trade in the company's name.

d The _____ is one of documents that every company has. This document contains the essential information about the company.

e To find the most recent information about the company, you should look at the last _____ that the company sent to Companies House.

Help desk

What do these words mean?

to **submit** – to present, to send or provide something (usually a document or some information) that is required.

profit and loss account – this document shows the income and expenses of the business, usually for the period of one year.

essential – fundamental, necessary.

balance sheet – a statement of a company's financial position. It shows the assets of the company and its liabilities (debts).

corporation tax – when a company makes a profit, the company has to pay part of that profit to the government in tax.

Exercise 2

Jumbled words. The memorandum of association always contains the following information. Look at the explanations below. The letters of the words that match each explanation are mixed up. Put the letters in the correct order to spell the words. The first letter of each word is there for you.

a The title of the company. C_____ N_____ (**ANYPCOM MENA**)

b The place where people will send all official letters and legal notices to. Lots of people think of it as the legal seat of the company. R_____ O_____ (**RISTREEDGE COFFIE**)

c The purpose of the company. O_____ (**TOBJECS**)

d A declaration about the responsibility of the shareholders. S_____ O__ L_____ (**MENTETATS FO ILILIBTAY**)

e The maximum amount that the company is allowed to issue in shares to shareholders. S_____ C_____ (**HERAS PITCALA**)

f The first shareholders of the company. S_____ (**SCRIBSUBERS**)

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Exercise 3

Put the correct word or expression from Exercise 2 into the sentences below.

a Rose Ferries and Sara Bell are the people who are taking the first shares in Herlink Ltd. They are called the _____.

b I want to issue a claim against Pearsons Ltd. I will serve the claim form on the company at the company's _____.

c The _____ and the address of the company's registered office must appear on all invoices that the company sends to people.

d If you want to find out the purpose of a company, you should look at the _____ clause in the company's memorandum of association.

e The _____ of the company is £10,000 divided into 10,000 shares of £1 each.

f The _____ will say if the members' responsibility is limited or unlimited.

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UNIT 7A VOCABULARY CHECK

These are the important words that you have studied in Unit 7A. You should make sure that you know these words before you go on to Unit 7B.

annual
annual return
articles of association
assets
at risk
authorised share capital

balance sheet

capital
certificate of incorporation
contribute
corporation tax

dispute
dissolved
dividend
dormant partner
draw
draw up
drawings

equity partner
expel
expenses

flexible
founder

income tax
incorporate
incorporated business
invest
investment
issue
issued share capital

joint and several liability

legal entity
legal personality
liable
limited liability
limited liability partnership
loss

manage
management
market value
member
memorandum of association

nominal value
notice period

objects
off-the-shelf company
option

partner
partnership
personal assets
premium
private limited company
profit
profit and loss account
proportion
public limited company

records and accounts
register
registered office
resign
retire
return
risky
rules and regulations
run a business
run into trouble
run up a debt

salaried partner
self-assessment form
self-employed
set up
share
share capital
shareholder
single-member company
sleeping partner
sole trader
stockbroker
submit
subscriber
substantial

trade
trade under

unlimited liability

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TOLES FOUNDATION EXAM PRACTICE

Exercise 1

Look at this list of words. They are all nouns. Put the correct word into the following sentences. Write your answers in the boxes numbered 1–10 below. There is an example at the beginning (*).

(AA) office	**(C) profit**	**(F) stockbroker**	**(I) partner**
(A) assets	**(D) dividend**	**(G) capital**	**(J) liability**
(B) subscribers	**(E) drawings**	**(H) shareholders**	

Example

(*) Every company has a registered (*) _____, which is the company's 'legal seat'.

1 A sole trader has unlimited (1) _____ for the debts of his or her business.

2 The (2) _____ of a company are the owners of the company. They can be individual people or other companies.

3 The aim of every commercial business is to make a (3) _____.

4 I own a lot of shares in different companies. I don't deal with the process of buying and selling the shares myself. I prefer to use the services of a (4) _____.

5 Sara Jones and I are in business together. It is not an incorporated business. Sara is my business (5) _____.

6 Translate Ltd is a small company that provides translation services for people who move to the UK, but who don't speak much English. The company doesn't have many (6) _____, just a computer and office furniture, some books, and cash at the bank.

7 Fenlake and Griffiths is a partnership. The partners do not receive a salary but they are each allowed to take £500 each month from the partnership account for personal use. The formal word for this money is (7) _____.

8 The shareholders are delighted because the company performed very well this year. The company announced that it will pay the shareholders a (8) _____ in June.

9 The issued share (9) _____ of a company is the total nominal value of the shares that the shareholders own.

10 The formal name for the first shareholders of a company is the (10) _____.

(*) AA	(1)	(2)	(3)	(4)	(5)
	(6)	(7)	(8)	(9)	(10)

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Exercise 2

Look at the groups of words below. In each group, three of the words belong to the same subject area but there is one word that does not belong. Put a circle around the word that is the odd one out. Do not circle more than one answer for each sentence. There is an example at the beginning (*).

(*)	**A** retire	**B** resign	**C** join	**D** expel
(1)	**A** set up	**B** start	**C** form	**D** dissolve
(2)	**A** sleeping	**B** shareholder	**C** equity	**D** salaried
(3)	**A** capital	**B** sole trader	**C** partnership	**D** company
(4)	**A** market value	**B** premium	**C** asset	**D** nominal value
(5)	**A** issued	**B** joint and several	**C** unlimited	**D** limited

Exercise 3

Look at the following article. Read it and decide if the statements under it are true or false. Write your answers in the box below. There is an example at the beginning (*).

Tom is a director of a private limited company called Fixit Ltd. He is the sole shareholder of that company. Tom incorporated his company three years ago. The company has an authorised share capital of £1000. Each share has a nominal value of £1. Tom owns 50 shares. The rest of the shares are unissued. Tom qualified as an accountant six years ago. He worked for a big firm of accountants as an auditor. Then he decided to start up his own business. Fixit Ltd provides a consultancy service for other businesses. Tom advises businesses on the best way to operate their accounts systems. He also gives businesses a lot of advice about tax.

Fixit Ltd is a successful company which has a lot of clients. Tom lives in Birmingham but he spends a lot of time at his clients' offices. Most of his clients are based in London.

Example

(*) Fixit Ltd is a public limited company.

1 Fixit Ltd is a single-member company.

2 The issued share capital of Fixit Ltd is £1000.

3 Tom is a qualified accountant.

4 Fixit Ltd collects tax from other businesses.

5 Tom spends a lot of his time in London.

(*) FALSE	(1)	(2)	(3)	(4)	(5)

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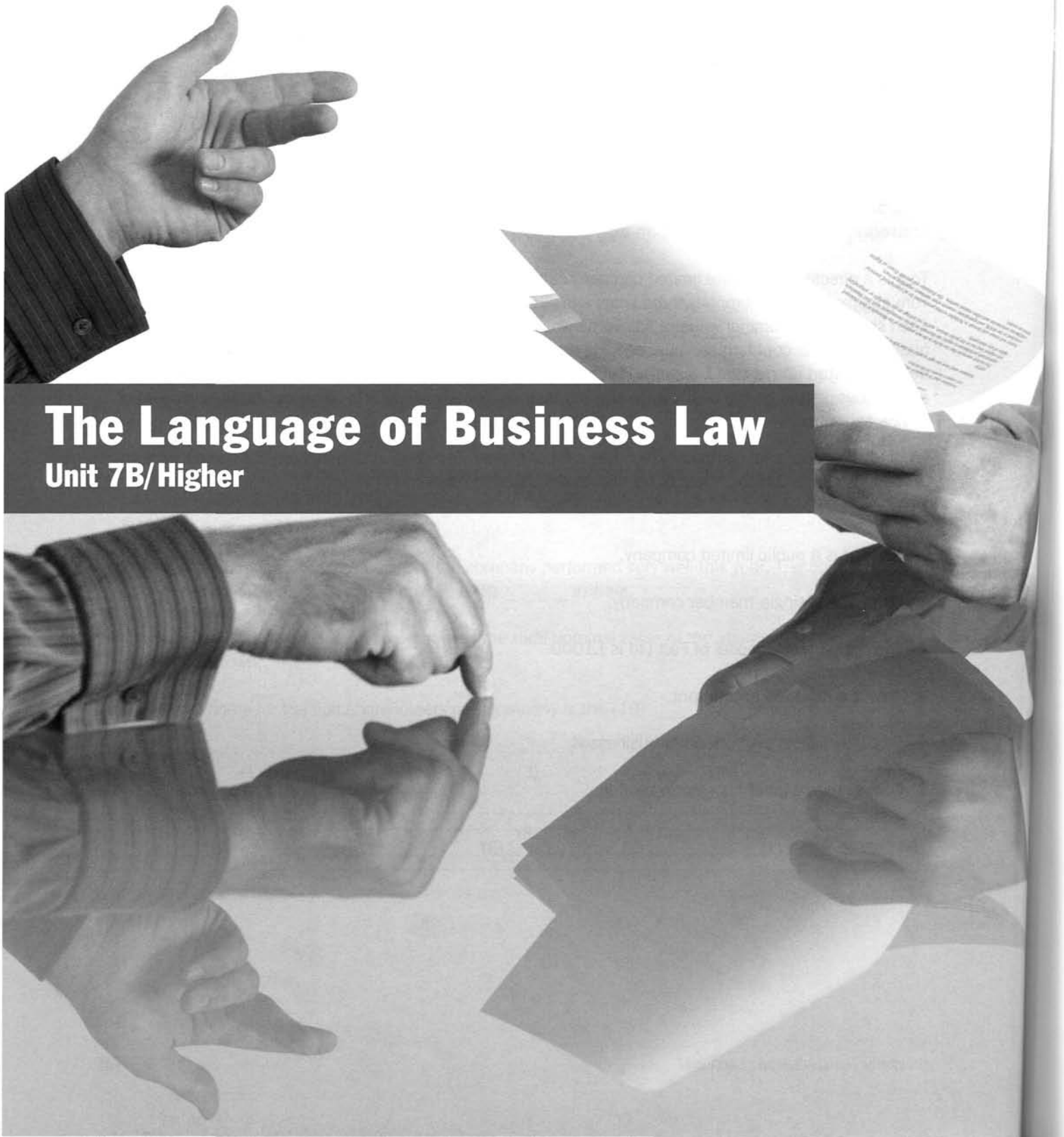

The Language of Business Law

Unit 7B/Higher

THE LANGUAGE OF BUSINESS LAW

INCORPORATED AND UNINCORPORATED BUSINESSES

Exercise 1

Lawyers often talk about the differences between incorporated businesses and unincorporated businesses. Look at each of the words and phrases in the blue box and decide if it is connected with:

a incorporated businesses

b unincorporated businesses

legal entity	**member**
partnership	**limited liability partnership**
private limited company	**corporation tax**
share	**joint and several liability**
unlimited liability	**public limited company**
dividend	**limited liability**
partner	**sole trader**

Exercise 2

Look at the following list of five different business structures. Read what the people say below and match their businesses with the correct business structure.

- **sole trader**
- **partnership**
- **limited liability partnership**
- **private limited company**
- **public limited company**

a **Esther Jackson**: 'We set up our business together two years ago. I'm an accountant and Mark is a builder. We trade under the name of MH Property Services. Mark does all the building work while I deal with all the paperwork. Mark and I share all the profits. We didn't have to register the business anywhere, but we joined the local small builders' association. We took out a loan from the bank when we set up, to buy a van and any tools that Mark needed. The bank insisted on securing the loan on our house, but as we were confident about the future of the business, we decided to take this risk. We're doing quite well at the moment.'

This type of business is a _____

b **Harriet Higgins**: 'I own shares in Express Enterprises, which I bought two years ago through a stockbroker. Express Enterprises has just announced that it has made record profits this year. It has declared a dividend, which provides an excellent return on my investment. This dividend is to be distributed soon. All of the shareholders will be delighted that the price of shares has risen by 21 pence each since this announcement was made. Stockbrokers are reporting that a lot of people are interested in buying Express Enterprises's shares.'

This type of business is a _____

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c **Hassan Abdullah**: 'I own a specialist business consultancy firm. I have office premises in Birmingham and I employ two full-time employees. I have just completed the annual return for the last year of trading, providing details of the capital, the shareholders, address of the registered office and other information. My accountant is preparing the annual financial accounts. Business fluctuated last year, but I am optimistic that it will grow and provide a steady income.'

This type of business is a _____

d **Elliot Solomon**: 'The four of us set up our accountancy business about 18 months ago. After considering the options, we decided on this type of business structure. Most new professional services are using this structure. There is less risk involved as we are only liable for the amount of money we contributed to the business. Tax was another consideration. We didn't want to pay corporation tax which is generally at a higher rate, so we opted for this. We each have to pay income tax on our share of the business profits.'

This type of business is a _____

e ***Suzanne Marshall***: *'I am a maths teacher. I used to work in a big school, but decided that I wanted to* do private tutoring, specialising in helping children who find it difficult to understand maths. The business is very successful and I have a waiting list of parents who are interested in their children having lessons with me. I don't want a big business, I'm happy just doing the hours I want. I can be as flexible as I want. If I need more money, I just accept extra pupils. The business is easy to run and I'm not restricted by rules and regulations.'

This type of business is a _____

m

Collocation bank

- to **set up** a business
- to **take** a risk
- to make **record** profits
- to **declare** a dividend
- to **distribute** a dividend
- a **return** on investment
- business **fluctuates**
- to **consider** an option
- to **secure** a loan

m

Preposition bank

- to trade **under** a name
  'The business is owned by Mr Fox, and trades **under** the name of "Foxgloves".'
- to insist **on** something
  'I advised her to settle the case, but she insisted **on** taking legal action.'
- to be confident **about** something
  'He took his law exams last week and he says that he is confident **about** the results.'
- to own shares **in** a company
  'My uncle owns shares **in** Harlax plc and also in Janson plc.'
- *to be interested **in** doing something*
  'I am interested **in** buying shares in Next Express plc.'
- a return **on** investment
  'I own shares in a number of companies which provide me with a good return **on** my investment.'
- to decide **on** something
  'Our lawyer advised us about the different business structures and we finally decided **on** a partnership.'
- to opt **for** something
  'At first we wanted to set up a private limited company, but in the end we opted **for** a partnership.'
- to be restricted **by** something
  *'Companies are restricted **by** a lot of rules* and regulations.'

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SOLE TRADERS

Exercise 1

José Perez is a website designer. He is thinking about starting his own business and yesterday evening he went to a talk given by the local BusinessConnect office, which gives information to entrepreneurs. Look at José's notes and match the headings in the blue box with the correct summary in the notes.

- **Setting up**
- **Management**
- **Tax**
- **Profits/losses**
- **Liability**
- **Capital**
- **Employing staff**

Notes about being a sole trader

a _____

It is very easy to start the business and you can begin to trade immediately. The owner does not need to register with anyone other than HM Customs & Excise, which is the government department in the UK that collects tax.

b _____

The owner is completely responsible for the business. If the business fails, the owner is fully responsible for all the business debts. This is called unlimited liability.

c _____

If the business does well and makes money, that money belongs to the owner. But if the business does badly, the owner bears all the losses.

d _____

The owner runs the business himself or herself and does not have a boss. You can pay other people to work for you if you start to get busy, but you will remain the boss.

e _____

You must register with HM Customs & Excise within three months of starting the business. If you make a profit you will have to pay part of it to the government.

f _____

The owner's word is final. The owner has full control over how he or she runs the business.

g _____

The owner uses his or her personal money, or borrows from friends or relatives. Banks can be reluctant to offer a loan to a new sole trader. You need a good business plan and the bank will want security over your personal assets to make sure you repay the loan.

m

Collocation bank

- to **make** a profit
- to **bear** a loss
- **personal** assets
- **unlimited** liability
- to **run** a business
- to **repay** a loan
- to **make** money
- to **have** control

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m

Preposition bank

- to register **with** someone
  'I am going to register **with** the local association of small businesses.'
- to be responsible **for** something
  'You are responsible **for** notifying us if you change your address.'
- to do something **within** a period of time
  'I need to answer that letter **within** five days.'
- to have security **over** assets
  'The bank has security **over** my house.'
- to borrow something **from** someone
  'I had to borrow £100 **from** my Dad last week as I had no money to pay my rent.'
- to belong **to** someone
  'The house belonged **to** my uncle before he died.'
- to have control **over** something
  'He has full control **over** the banking arrangements of the business.'

Exercise 2

José Perez is talking about the advantages and disadvantages of being a sole trader. Using your knowledge of collections and propositions, correct the language below.

'I considered all the advantages and disadvantages when I (**a**) **created** my business and in the end I opted (**b**) **to** a type of business in which I am called a sole trader. It is easy to (**c**) **operate** and you don't need to register (**d**) **to** anyone except the tax authorities. As I am the sole owner, I am entitled (**e**) **for** all the profits that the business (**f**) **earns**, but if things go wrong, I (**g**) **take** all the losses. I have (**h**) **unrestricted** liability for the debts of the business, which means that my (**i**) **own** assets are at risk if I can't pay my creditors. I borrowed some money (**j**) **with** the bank, and they now have security (**k**) **for** my house.'

'I considered all the advantages and disadvantages when I (**a**) _____ up my business and in the end I opted (**b**) _____ a type of business in which I am called a sole trader. It is easy to (**c**) _____ and you don't need to register (**d**) _____ anyone except the tax authorities. As I am the sole owner, I am entitled (**e**) _____ all the profits that the business (**f**) _____, but if things go wrong, I (**g**) _____ all the losses. I have (**h**) _____ liability for the debts of the business, which means that my (**i**) _____ assets are at risk if I can't pay my creditors. I borrowed some money (**j**) _____ the bank, and they now have security (**k**) _____ my house.'

PARTNERSHIPS

Exercise 1

The Royal Chatsworth Bank has produced some Business Fact Sheets for its customers. The fact sheet about partnerships is on the next page. Fill the gaps in the text with the correct words or phrases from the box below.

- **joint and several**
- **sleeping**
- **profits**
- **assets**
- **self-employed**
- **creditor**
- **register**
- **legal entity**
- **resigns**
- **dissolved**
- **salaried**
- **equity**

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The Royal Chatsworth Bank

Business Fact Sheet – Partnerships

If two or more people wish to go into business together, a partnership offers a simple way to do so. Partners share the control, responsibility and finances of the business. You do not need to (**a**) _____ your partnership, except with the tax authorities. A partnership is not a (**b**) _____. It does not have its own legal personality. As a result, each partner is usually regarded as being (**c**) _____. Each partner will pay income tax on their share of the (**d**) _____ of the partnership.

A partnership often just consists of general partners. All of these partners have the authority to make decisions about the business. They share all the profits and have (**e**) _____ liability for any debts incurred by the business. This means that if the partnership does not pay what it owes to someone, that (**f**) _____ may demand payment from one or more of the partners. The partners' personal (**g**) _____ are said to be 'at risk'.

It is possible to have other types of partner. An (**h**) _____ partner contributes capital to the partnership and receives a share of the partnership profits in proportion to the amount of capital he or she has invested. These partners are involved in all decision-making. Another type of partner is a (**i**) _____ partner, who receives high remuneration for his or her services, but does not receive a share of the profits of the partnership. Finally, some people may contribute money to the partnership but they do not involve themselves in the day-to-day control of the business. They are often called (**j**) _____ partners or dormant partners.

There is no legal obligation to have a partnership agreement although this is recommended. It will help to avoid or resolve any disputes which may arise. If there is no partnership agreement, the dispute will be settled according to the Partnership Act 1890. However, the Partnership Act may provide a solution that the partners do not like. Also, if there is no partnership agreement, the partnership must be (**k**) _____ instantly if a partner ceases to be a partner, for example if he or she dies, (**l**) _____ or goes bankrupt. Again, this is probably not what the partners would like to happen.

m

Collocation bank

- to **go into** business
- a legal **entity**
- to **make** a decision
- to **incur** a debt
- to **demand** payment
- to **resolve** a dispute
- to **settle** a dispute
- to **dissolve** a partnership
- to **go** bankrupt

m

Preposition bank

- according **to** something
  'All disputes are resolved according **to** the terms of your partnership agreement.'
- to consist **of** something
  'My diet consists **of** coffee and chocolate!'

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THE LANGUAGE OF DRAFTING

Francesca Rodd is a lawyer who specialises in partnerships. Two of her clients, Samantha Sully and Kate Mace, are setting up a beauty salon. Samantha and Kate have already met Francesca once to ask some questions about operating a business as a partnership. However, they have now decided to include a third partner, Angie Forrest, in the business. The addition of a new partner means that Francesca will have to think carefully when she defines the term 'partner' in the agreement.

All three partners have instructed Francesca that they would like new partners to be able to join them in future if the business is successful. This is another factor that Francesca will have to take into consideration when she defines the term 'partner' in the partnership agreement.

The clause that Francesca drafts must:

a *include* all three current partners.

b *include* any partner who may join the partnership in the future.

c *exclude* any partner who leaves the partnership. This applies to any future partners as well as the three current partners.

Exercise 1

The three situations above that Francesca must cover in her clause are described in more detail below. Match the situations with the correct description.

Any individual who used to be a partner of the business but who now stops being a partner for any reason at all. (1)

All of the individuals who are parties to this agreement at the date of this agreement. (2)

Any individual or individuals who join the partnership each starting from the particular date on which he/she adds his/her name to the schedule attached to this agreement. (3)

Exercise 2

Here are some words that Francesca will need to use when she drafts the clause that provides a definition of the term 'partner' in the partnership agreement. Match each word with the correct meaning.

a **Respective** means...

b A **schedule** is...

c **Annexed** means...

d **Context** means...

e **Whatsoever** means...

...a document containing extra information that is attached to a contract. (1)

...relevant, particular, the one thing in a group of things that refers to or belongs to a particular person. (2)

...attached. (3)

...at all. (4)

...circumstances or situation. (5)

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Exercise 3

Choose the correct word from the list in Exercise 2 to complete these sentences.

a The specifications for the building work that your client will carry out are contained in the _____ attached to this contract.

b The company will not pay any additional expenses _____, so you should be very careful not to spend more than the money that you have been given.

c _____ to this draft contract is the list of assets that you are purchasing.

d What is the full _____ of the dispute between the partners? I only have one person's story so I do not know the exact circumstances.

e After the meeting both of the lawyers returned to their offices to discuss the new developments in the case with their _____ clients.

Exercise 4

Using the descriptions from Exercise 1 and the definitions in Exercise 2 to help you, complete the clause that Francesca drafts for the partnership agreement by putting the words from the blue box below in the correct place.

- **hereto**
- **whatsoever**
- **former**
- **respective**
- **annexed**
- **hereof**
- **thereof**

The 'Partners' means all the individuals who are parties (**a**) _____ at the date (**b**) _____ and shall include, from the (**c**) _____ dates upon which any other individuals by the addition of their names and addresses to the schedule (**d**) _____ hereto such other individual or individuals, and shall unless the context otherwise requires exclude any such individual being a (**e**) _____ partner of the business who shall have ceased for (**f**) _____ reason to be a partner (**g**) _____.

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Exercise 5

Look at these clauses from the partnership agreement. They deal with when the partnership between the three partners will begin and how long the partnership will continue. Match the words and phrases that are highlighted in the clauses with the meanings below.

2. **Commencement** and **Duration**

2.1 **Subject to** the provisions for **retirement**, **resignation**, **expulsion** and **dissolution** hereinafter contained the Firm shall continue during the joint lives of the Partners and the **survivors** of them.

2.2 If any Partner **ceases** to be a partner **by reason of** his death or retirement or expulsion in accordance with the **provisions** of this agreement the Firm shall not **determine** as regards the surviving or continuing Partners.

2.3 The Partnership shall continue until terminated at the end of any Partnership Year by a **majority** of the Partners giving to all the other Partners not less than three months' written **notice** of their intention to do so.

a Formal communication or warning that something is about to happen.

The word is _____

b A situation where someone leaves a business partnership because the other partners force him or her to go.

The word is _____

c To end or to terminate. This word also has another meaning in legal English, which is to 'decide'. When you see this word in an agreement you must be careful to be sure of which meaning the lawyer is using.

The word is _____

d A word to describe the situation where someone stops working because he or she has reached a certain age. In many countries this is the age of 65.

The word is _____

e The terms and conditions contained in a contract.

The word is _____

f A formal way of saying 'because of'.

The word or phrase is _____

g The situation where a partnership has been brought to an end so that it no longer exists.

The word is _____

h A formal word meaning the start or the beginning of something.

The word is _____

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i A formal word meaning 'stops'.

The word is _____

j The situation where someone leaves his or her job voluntarily. That person stops working by telling the employer, usually by letter, that he or she is leaving.

The word is _____

k A formal way of saying 'considering what is written in' or 'except as stated in'. These words also have another meaning in legal English, which is 'depending on'. When you see these words in an agreement you must be careful to be sure of which meaning the lawyer is using.

The word is _____

l A period of time. It has a definite beginning and a definite end.

The word is _____

m Most of the people or things in a particular group. More than half of any particular group.

The word is _____

n The remaining partners. The people who continue to be partners after one of the partners dies or leaves the partnership for any other reason.

The word is _____

Exercise 6

In the partnership agreement that Francesca Rodd is drafting, she has referred to the partnership as 'the Firm'. Samantha, Kate and Angie are the only three partners in the beauty salon. Read the clauses in Exercise 5 again and decide if the following statements are true or false.

a	Unless something happens that is stated in the clauses about retirement, resignation, expulsion and dissolution, the partnership will continue while Samantha, Kate and Angie are all alive.	**True**	**False**
b	The word 'survivors' in clause 2.1 means the children of Samantha, Kate and Angie.	**True**	**False**
c	If one partner dies, the partnership will end.	**True**	**False**
d	If Kate does something wrong and is forced to leave the Firm, then Samantha and Angie will continue with the partnership.	**True**	**False**
e	If one partner retires at the age of 60, the partnership will end.	**True**	**False**
f	Kate and Angie can end the partnership by writing to Samantha, telling her three months in advance that they want to close the partnership at the end of the Partnership Year.	**True**	**False**

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Exercise 7

Here are two more clauses from the partnership agreement. Explain the meaning of each of the highlighted words. Make sure you check how the words are being used in these clauses. There is an example at the beginning (*).

> 6. Profits and losses
>
> The Partners shall share the Profit for each Partnership Year and (*) **bear** any loss for any Partnership Year in the (**a**) **proportions** specified opposite their names in column 2 of Schedule 1 hereto.
>
> 7. Drawings
>
> Unless otherwise (**b**) **determined** by the Partners each Partner shall be (**c**) **entitled** to (**d**) **draw** from the Partnership Account on account of his share of the Profit for each Partnership Year the (**e**) **aggregate** monthly sum stated opposite her name in column 3 of Schedule 1 hereto.

Example: To **bear** a loss means to carry a loss. You will have to pay for that loss.

a **Proportions** means _____

b **Determined** means _____

c **Entitled** means _____

d To **draw** means _____

e **Aggregate** means _____

THE REGISTER OF LETTER WRITING

Exercise 1

Francesca has written the letter on the opposite page to her clients, enclosing the partnership agreement that she has drafted for them. The words that have been underlined are too informal. Replace these words with a more appropriate phrase. There is an example at the beginning (*).

(*) your instructions

a

b

c

d

e

f

g

h

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Hedgsons LLP

1 High Street
Chatsworth
CH1 6GT

Samantha Sully, Kate Mace and Angie Forrest
14 Kitstone Avenue
Chatsworth
CH1 6GT

15 March 20XX

My ref: FR 44

Dear Ms Sully, Ms Mace and Mrs Forrest

Partnership agreement for Revitalise beauty salon

I have drawn up a partnership agreement in accordance with (*) what you told me.

You are all (**a**) giving an amount of £5,000 to the business. I have provided in clause 8 of the agreement that you will receive interest on this sum at the rate of 5% each year. You will (**b**) all have any gains and losses equally. Similarly, you will be equally (**c**) responsible for the costs of running the business and for paying the (**d**) amounts of money that the partnership owes if there are insufficient funds in the partnership account.

Clause 7 provides that each of you will be able to (**e**) take £500 a month from the partnership account for your personal use, which represents a prepayment of your part of the profits over the accounting period. If at the end of the accounting period any of you has had more than your share of the profits, then you have to repay back the excess amount immediately.

Clause 9 specifies the earliest possible (**f**) time for leaving the partnership for age reasons is 60. Clause 12 sets out the grounds for (**g**) forcing a partner to go out of the partnership, either because they have done something wrong or for some other reason. Finally, clause 15 says what will happen when you want to (**h**) finish the partnership.

I look forward to seeing you next Wednesday morning at 10 o'clock when I can answer any questions that you may have and we can finalise the agreement.

Yours sincerely

Francesca Rodd

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COMPANIES

Exercise 1

Sandra Hobson is a law student at the University of Chatsworth. She has just attended a lecture on company law. Here are her notes about private limited companies and public limited companies. Read Sandra's notes and find the words or phrases in the notes that match each of the meanings on the next page.

My notes – company lecture

Private limited and public limited companies

The governing legislation is Companies Act 2006.

All companies are registered at Companies House, which is the central registry of companies in the UK.

Companies are incorporated businesses.

A company is a legal entity. It has its own legal personality.

Companies must disclose certain information. Each year, every company must file its financial accounts and Annual Return at Companies House. The financial accounts include a balance sheet and a profit and loss account. The Annual Return contains up-to-date information about that company.

The owners of a company are known as the members, or shareholders.

Shareholders have limited liability. They will not be liable for the company debts with their own assets.

Companies pay corporation tax; employees pay income tax.

Companies must follow lots of rules and regulations.

Every company has a memorandum and articles of association.

The business of a company is run by the directors.

The shareholders may receive a dividend if the company makes a profit.

Private limited company

The name of a private limited company must end with the word 'Limited' or the abbreviation 'Ltd'.

A private limited company must have a minimum of one director and a company secretary.

It is possible (and common) to have a single-member company, with only one shareholder.

No minimum share capital is required to set up a private limited company.

The agreement of existing shareholders is needed to issue new shares or buy or sell existing shares.

Public limited company

The name of a public limited company must end with the abbreviation 'plc'.

A public limited company must have a minimum of two directors and a company secretary.

It is not possible to have single-member public limited company.

A public limited company can be a listed company or unlisted. If listed, the company shares can be bought or sold on the Stock Exchange or Alternative Investment Market (AIM), often through a stockbroker. A stockbroker deals in shares.

A minimum of £50,000 share capital is currently required to start a public limited company.

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a These are businesses which have been formally set up and registered as companies.

Answer: _____

b This is something that exists in the eyes of the law. It is a legal 'being', and can be a person or a company.

Answer: _____

c This means 'to make public', to tell someone, or to reveal.

Answer: _____

d This is another name for the shareholders of the company.

Answer: _____

e This means that the shareholders will not lose more than their investment in the company. They will have to pay any amount that they still owe to the company for their shares, but no more.

Answer: _____

f This is the name of the tax that a company has to pay.

Answer: _____

g This is the name of the tax that individuals must pay when they earn money.

Answer: _____

h These are the people who are responsible for the day-to-day management and running of the company.

Answer: _____

i This is a payment of a company's profits to the shareholders of the company.

Answer: _____

j This is the person who must make sure that all the statutory regulations regarding a company are followed.

Answer: _____

k This is a company that has just one shareholder.

Answer: _____

l This is the amount of money that represents the value of a company's shares.

Answer: _____

Collocation bank

- to **disclose** information
- to **issue** shares
- to **list** a company

Preposition bank

- to have the agreement **of** someone
  'We have the agreement **of** our shareholders to enter into this contract.'
- to do something **through** someone
  'I am buying some shares in Hatford plc **through** a stockbroker.'
- to file a document **at** a place
  'You need to file your statement **at** the court office.'
- to end **with** something
  'The name of a public limited company always ends **with** plc.'

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INCORPORATING A COMPANY

Exercise 1

Peter Craig and his friend want to set up a new business. They have found a website called www.CoTypes.co.uk, which provides information about the different types of company that exist in the UK. Peter has printed off the following information about private limited companies. Complete the gaps in the text by using the correct word or phrase from the box below.

- **subscribers**
- **objects**
- **incorporate**
- **sole**
- **incurred**
- **off-the-shelf**
- **entity**
- **compliance**
- **registered office**
- **articles of association**
- **memorandum of association**
- **liability**

www.CoTypes.co.uk/ltd

Private limited companies

All private limited companies are registered at Companies House. A private limited company must have a minimum of one shareholder. It must also have at least one director and one company secretary. If there is only one director then this (**a**) _____ director cannot also be the company secretary. Directors run the company and the company secretary is responsible for making sure that information about the company's management, activities and capital is available to its shareholders and to members of the public.

Limited (**b**) _____ protects the owners of a limited company from personal loss as the company is a separate legal (**c**) _____. A private limited company has its own profits and debts. In other words, any debts (**d**) _____ are the company's debts and not those of the owners.

Forming a company

You can buy an (**e**) _____ company from a company formation agent. This is a company that has already been set up, but it has never traded. Alternatively you can (**f**) _____ a company yourself. In this case, you need to submit the following documents, together with the registration fee to Companies House:

- Memorandum of association
- Articles of association
- Form 10 and Form 12

The (**g**) _____ sets out the company's name, where the (**h**) _____ of the company is situated and what it will do, in other words, the purpose of the company. Lawyers call that the (**i**) '_____' of the company. Many companies use a short objects clause in the memorandum, stating that the object of the company is 'to carry on business as a general commercial company'.

The (**j**) _____ set out the rules for the running of the company's internal affairs. The articles must be signed by the (**k**) _____. These people are the first shareholders of a company.

Form 10 gives details of the first directors, secretary and the intended address of the registered office. Form 12 is a statutory declaration of (**l**) _____ with all the legal requirements relating to the incorporation of a company.

Note: *When the Companies Act 2006 finally comes into force, there will be a change to the procedure of incorporating a company.*

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Preposition bank

- to protect someone **from** something
  'A patent will protect your invention **from** being copied.'
- to have a number **of** something
  'We need a minimum **of** 12 people to attend this course.'
- the object **of** something
  'What is the object **of** your meeting?'
- to have **at** least a number
  'We need **at** least £20,000 to finance the project.'
- to make something available **to** someone
  'I promise that I will make this information available **to** anyone who asks for it.'
- to submit something **to** someone
  'You must submit these documents **to** the tax office by 31 January.'

LISTENING

Exercise 1

Peter Craig and his friend decide to set up a private limited company. Peter goes to see a solicitor called Greg Harrison, who specialises in company law. Listen to their conversation. It is about completing one of the forms which is needed in order to incorporate the new company. Answer the following questions.

a What is the name of the company? _____

b What is the address of the registered office? _____

_____

c Is Mr Craig using an agent? _____

d What is Mr Craig's telephone number? _____

e Does Mr Craig have a DX number? _____

f What is the name of the company secretary? _____

g What is the address of the company secretary? _____

_____

h Is the company secretary a Miss, Ms or Mrs? _____

i Complete the following details about the two directors of the company:

	Director's details	Director's details
Full name, including title		
Address		
Date of birth		
Nationality		
Occupation		
Director of other companies?	Yes/No	Yes/No

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PAPERWORK

Exercise 1

Using the details that you have from the Listening Exercise, complete Form 10 below.

Companies House

10

First directors and secretary and intended situation of registered office

Please complete in typescript, or in bold black capitals.
CHWP000

Notes on completion appear on final page

Company Name in full

Proposed Registered Office
(PO Box numbers only, are not acceptable)

Post town

County / Region

Postcode

If the memorandum is delivered by an agent for the subscriber(s) of the memorandum mark the box opposite and give the agent's name and address.

Agent's Name

Address

Post town

County / Region

Postcode

Number of continuation sheets attached

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

Tel

DX number DX exchange

Companies House receipt date barcode

This form has been provided free of charge by Companies House

v 10/03

When you have completed and signed the form please send it to the Registrar of Companies at:
Companies House, Crown Way, Cardiff, CF14 3UZ DX 33050 Cardiff
for companies registered in England and Wales
or
Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB
for companies registered in Scotland DX 235 Edinburgh
or LP - 4 Edinburgh 2

Company Secretary (see notes 1-5)

Company name

NAME *Style / Title *Honours etc

* Voluntary details

Forename(s)

Surname

Previous forename(s)

Previous surname(s)

†† Tick this box if the address shown is a service address for the beneficiary of a Confidentiality Order granted under section 723B of the Companies Act 1985 otherwise, give your usual residential address. In the case of a corporation or Scottish firm, give the registered or principal office address.

Address ††

Post town

County / Region

Postcode

Country

I consent to act as secretary of the company named on page 1

Consent signature

Date

continued

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Directors (see notes 1-5)

Please list directors in alphabetical order

NAME *Style / Title | *Honours etc

Forename(s)

Surname

Previous forename(s)

Previous surname(s)

†† Tick this box if the address shown is a service address for the beneficiary of a Confidentiality Order granted under section 723B of the Companies Act 1985 otherwise, give your usual residential address. In the case of a corporation or Scottish firm, give the registered or principal office address.

Address ††

Post town

County / Region | Postcode

Country

Date of birth Day Month Year | **Nationality**

Business occupation

Other directorships

I consent to act as director of the company named on page 1

Consent signature | **Date**

Directors (see notes 1-5)

Please list directors in alphabetical order

NAME *Style / Title | *Honours etc

* Voluntary details

Forename(s)

Surname

Previous forename(s)

Previous surname(s)

†† Tick this box if the address shown is a service address for the beneficiary of a Confidentiality Order granted under section 723B of the Companies Act 1985 otherwise, give your usual residential address. In the case of a corporation or Scottish firm, give the registered or principal office address.

Address ††

Post town

County / Region | Postcode

Country

Date of birth Day Month Year | **Nationality**

Business occupation

Other directorships

I consent to act as director of the company named on page 1

Consent signature | **Date**

This section must be signed by either an agent on behalf of all subscribers or the subscribers (i.e those who signed as members on the memorandum of association).

Signed		**Date**	
Signed		**Date**	
Signed		**Date**	
Signed		**Date**	
Signed		**Date**	
Signed		**Date**	
Signed		**Date**	

Printed with permission of Companies House

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Exercise 2

Peter Craig asks his solicitor, Greg Harrison, to draft the Memorandum of Association of the new company. The memorandum appears below. Fill each gap in the memorandum with the correct word or phrase from the blue box.

- **objects**
- **liability**
- **share capital**
- **registered office**
- **subscribers**
- **name**

The Companies Acts 1985-89
Private Company Limited by Shares
Memorandum of Association
of
Outback Adventures Ltd

1. The company's (**a**) _____ is Outback Adventures Ltd.
2. The company's (**b**) _____ is to be situated in England and Wales.
3. The (**c**) _____ of the company are to carry on business as a general commercial company.
4. The (**d**) _____ of the members is limited.
5. The company's (**e**) _____ is £100,000 divided into 100,000 ordinary shares of £1.00 each.
6. We, being the (**f**) _____ to this Memorandum of Association, wish to be formed into a company pursuant to this Memorandum and we agree to take the number of shares shown opposite our respective names:

Names and addresses of subscribers	**Number of shares taken by each subscriber**
Peter Craig 15 London Road Oxton Hapshire OX5 4HJ	Ten thousand shares
Shane Bradman 87 Hunts Roads Oxton Hapshire OX2 6GP	Ten thousand shares
Total shares taken	Twenty thousand shares
Dated	14/08/20XX

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Exercise 3

Greg Harrison is now acting for another client, Raj Patel, in the incorporation of a new company. Using the memorandum in Exercise 3 as a model, draft the Memorandum of Association for Raj Patel's new company. Here are the details that must be included in your memorandum.

Client details:	**Company details:**
Raj Patel 2 Cherryholt Road Chatsworth CH3 6GH	RP Computer Services Ltd Capital: £100,000. Nominal value of each share is £1 Issued: 25,000 RP to be sole shareholder

The Companies Acts 1985-89
Private Company Limited by Shares
Memorandum of Association
of

_____

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

_____

Name and address of subscriber	**Number of shares taken by the subscriber**
_____	_____
_____	_____
_____	_____
_____	_____
Total shares taken	_____
Dated	_____

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SHARES AND SHARE CAPITAL

Exercise 1

Kerry Bingham is a trainee lawyer. She is doing her training contract with Taylor Wallis. She is currently in the company law department of the firm and Greg Harrison is her supervisor. Greg is explaining the concepts of shares and share capital to her.

'Clients often ask about the different share capital values that there are. It's quite difficult to explain, especially if the clients are from another country where they don't have the same sort of capital values. First, let's just go through the different share values. The **market value** of a share is the amount that a buyer actually pays for the share. That value fluctuates, meaning it varies, depending on how well the company is performing. The **nominal value** of the share stays constant – it is fixed for each company in the memorandum of association. For example, it might say in the memorandum that "the share capital of the company is £10,000 divided into 10,000 shares of £1 each." In this example then, the nominal value of each share is £1. Now, let's say the company is performing very well, and I want to buy some shares. I pay £6 for each share. So the market value is £6 and the nominal value is £1. That leaves a difference of £5 and we call that the **premium**.

Now let's look at share capital values. In the UK, **authorised share capital** refers to the quantity and value of shares that a company is authorised to issue. This figure appears in the company's memorandum of association. There isn't a minimum authorised capital for a private limited company, but a public limited company must have an authorised share capital of at least £50,000.

A company's **issued share capital** refers to the quantity and value of shares actually issued to shareholders. Issued means 'given out'. Another word is 'allotted'. The issued share capital is sometimes also called the **nominal share capital**, as it refers to the nominal value of the shares, not the market value. Before it can start to trade, a public limited company must have allotted shares to the value of £50,000. The shareholders of the company do not have to pay for the total amount of their shares at the time they receive them, but they must pay for at least a quarter of the nominal value of all their shares at that time. In addition, they have to pay any premium on the share.

Going back to my example, if a share with a nominal value of £1 is sold for £6 then the premium is £5. This premium must be paid to the company together with a minimum of a quarter of the nominal value of each share. So, £5 plus £0.25 makes a total payment of £5.25.'

Look at the following information and answer the questions below.

The memorandum of Highgraves plc states:

'The company's share capital is £300,000 divided into 300,000 ordinary shares of £1.00 each'

The company's balance sheet says:

Share capital	200,000
Share premium account	160,000

a What is the authorised share value of the company? _____

b What is the nominal value of each share? _____

c What is the issued share capital? _____

d How much more share capital can the company issue if it wants? _____

e What is the total amount of the premiums that have been received by the company? _____

f Assume that all the shareholders paid the same amount for their shares. Was the premium on each share 8p, 80p, £1 or £1.60? _____

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LIMITED LIABILITY PARTNERSHIPS

Exercise 1

Francesca Rodd is writing a short explanation of limited liability partnerships. Her law firm is going to put this information on its website. Read the text and answer the questions that follow using a full sentence.

Limited Liability Partnerships

Limited Liability Partnerships (LLPs) were first introduced in the UK in April 2001. They are becoming an increasingly popular way of structuring a business. This is especially true of professional practices, such as accountancy firms and law firms.

Setting up an LLP involves a similar process to that of setting up a limited company. LLPs are registered at Companies House and the requirements of disclosing information and filing annual returns and accounts are similar to those for companies. The name of the partnership must end with LLP. In the same way that a company has a separate legal personality, so does an LLP. It may sue and be sued in the name of the LLP. The partners of an LLP have the advantage of limited liability, which protects their personal assets. However, an LLP is not taxed as a limited company but as a partnership. Also, an LLP is a more flexible structure than a company, with fewer rules and regulations to comply with.

The partners of an LLP are called members. At least two of those members are chosen to be 'designated members', which are the equivalent of the directors of a company. The 'rules' of the partnership are contained in an agreement, decided by the members.

We can help you decide if an LLP is the right form of business structure for you and prepare the necessary formation and internal documents.

For more information and legal advice on Limited Liability Partnerships, call Francesca Rodd on 08451 2536478 or email her at frodd@hedgsons.co.uk

a When did it become possible to set up a limited liability partnership?

_____

b Which professions like to use this particular structure for their business?

_____

c What documents do limited liability partnerships have to send to Companies House each year?

_____

d How does someone know that a business is a limited liability partnership?

_____

e How is an LLP taxed?

_____

f How many designated members must a limited liability partnership have?

_____

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THE LANGUAGE OF DRAFTING

Exercise 1

Francesca Rodd is acting for some new clients who wish to set up a limited liability partnership. Francesca has drawn up a deed of partnership. The clause below deals with setting up the limited liability partnership. Fill each gap in the clause with the correct preposition from the blue box.

under **at** **with** **to** **in** **of**

2. Incorporation

2.1 The Members shall complete and deliver (**a**) _____ Companies House all such documents and pay all such fees as shall be necessary to lead to the incorporation (**b**) _____ the LLP (**c**) _____ accordance (**d**) _____ the Limited Liability Partnerships Act 2000.

2.2 The certificate of registration of the LLP issued (**e**) _____ the Limited Liability Partnerships Act 2000 shall be kept (**f**) _____ the Registered Office.

Exercise 2

Look at the words and phrases in the blue box. Match them with the correct meanings below. You will need these words and phrases to complete the next exercise.

ratify (1)	**take effect** (4)	**benefit** (7)
prior (2)	**determine** (5)	**consent** (8)
subsist (3)	**indemnify** (6)	**In the event that** (9)

a	if	**d**	start to operate	**g**	before
b	decide	**e**	officially approve	**h**	continue to exist
c	good	**f**	pay for any damage suffered	**i**	permission

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Exercise 3

Read the clause below. It deals with when the business will begin and how long it will continue. Fill each gap in the clause with the correct word or phrase from the blue box in Exercise 2.

3. Commencement and duration

3.1 The the provisions of this Agreement shall (**a**) _____ on the Commencement Date.

3.2 The LLP shall carry on the Business and/or carry on such other or additional trade profession or business as the Members shall from time to time (**b**) _____.

3.3 The LLP shall (**c**) _____ until wound up in accordance with the provisions of the Limited Liability Partnerships Act 2000.

3.4 (**d**) _____ any Member may be personally liable under any contract entered into by him (**e**) _____ to the incorporation of the LLP which was for the (**f**) _____ of the LLP and with the express or implied (**g**) _____ of the other Members then the LLP shall on incorporation be deemed to (**h**) _____ that contract and shall (**i**) _____ that Member from and against all claims, liabilities and costs in connection with it.

Exercise 4

Read the clauses in Exercise 1 and Exercise 3 again and decide if each of the following statements are true or false.

a	It does not cost anything to register a limited liability partnership.	**True**	**False**
b	When a new limited liability partnership is set up, it receives a certificate of registration from Companies House.	**True**	**False**
c	The members can change the type of business that the limited liability partnership carries out, if they wish.	**True**	**False**
d	To end a limited liability partnership, the terms of the relevant statute must be followed.	**True**	**False**
e	Clause 3.4 aims to protect the partners from any liability that they may have arising from all contracts that they signed before the limited liability partnership was officially created.	**True**	**False**

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USING YOUR KNOWLEDGE

Collocation review

Complete these sentences with a collocation that you have seen.

a I've _____ all the options available to me and decided to go ahead and start the business.

b The shareholders were pleased when Gernee plc _____ a dividend, as last year they received nothing.

c Harrow & Trot plc has just announced that although business _____ following the changes in interest rates, annual profits were up by 11% last year.

d If the business does badly, I may lose my house as I have _____ liability for all of the debts of the business.

e We will not _____ information about you to any third parties without your permission.

f If you do not have a partnership agreement, any disputes will be _____ according to a statute from 1890.

g I wasn't able to pay my creditors and had no choice but to _____ bankrupt.

h The company _____ shares to three new members.

i I've always wanted to own a business, but was a bit worried about it. Two years ago I decided to _____ a risk and start a nursing agency. I'm pleased to say it's doing well.

j We had a fantastic year last year – we made _____ profits.

Vocabulary review

Complete these sentences with a word that you have seen.

a We are afraid that your behaviour gives us no choice other than to _____ you from the partnership.

b I have decided to _____ all my money in a new company called TenBase plc.

c When a new company is set up, it receives a _____ of incorporation from Companies House.

d The authorised share capital is £100,000 divided into 100,000 shares with a _____ value of £1 each.

e Partners have joint and _____ liability for the partnership debts.

f Their solicitor advised them on the procedure that it is necessary to follow in order to _____ a new company.

g Another expression meaning a legal person is a legal _____.

h Each partner is allowed to take out some money from the partnership account each month for his or her personal use. This is called his or her _____.

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i The first shareholders of a company are called the _____.

j In its memorandum of association, every company has an _____ clause, which states the purpose of the company.

Preposition review

Complete these sentences with the correct preposition.

a I want to be a company lawyer as I am very interested _____ commercial and business law.

b We are a limited liability partnership, which operates like a company but is taxed _____ a partnership.

c You must submit an annual return and accounts _____ Companies House every year.

d Our business name appears _____ the list of reputable estate agents.

e We are a small business, consisting _____ four full-time employees and two part-time employees.

f You must have _____ least £50,000 share capital to start a public limited company.

g The object _____ this exercise is to make sure that you can remember the correct prepositions!

h According _____ the partnership agreement, each partner is entitled to drawings of £500 each month.

i I authorise you to make this information available _____ Mr Richard Jard.

j The bank is willing to lend us some money, but it is insisting _____ a personal guarantee from each of us.

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TOLES HIGHER EXAM PRACTICE

Exercise 1

Read the following clause. The missing words are in the list below. For each gap choose the word which best fits into the space from the options provided. Use each option only once. Write your answers in the box below. There is an example at the beginning (*).

FROM A PARTNERSHIP AGREEMENT

6. Profits, Losses and Salaries

6.1 (*) _____ to the following (1) _____ of this clause the Partners shall (2) _____ the profit for each Partnership Year and (3) _____ any loss for any Partnership Year in the proportions specified opposite their names in column 2 of Schedule 1 hereto.

6.2 There shall be paid in each year by way of gross (4) _____ salaries which shall be deemed to accrue from day to day and shall be paid (5) _____ such sums (if any) as are set out opposite the Partners' respective names in the Schedule 2 hereto.

(AA) Subject	**(B) monthly**	**(D) annual**
(A) share	**(C) provisions**	**(E) bear**

(*) AA	(1)	(2)	(3)	(4)	(5)

Exercise 2

Read the following clause. The missing prepositions are in the list below. For each gap choose the preposition which best fits into the space from the options provided. Use each option only once. Write your answers in the box below. There is an example at the beginning (*).

FROM A LIMITED LIABILITY PARTNERSHIP AGREEMENT

10. Drawings

10.1 There shall be paid to each Member (*) _____ the Payment Date (1) _____ each Month the Drawings or such other sum as the Members may (2) _____ time to time agree (3) _____ respect either of all Members or such Members as may thus be determined.

10.2 Any further payments to be made to or on behalf of any Member and any assets to be transferred to or (4) _____ the benefit of any Member shall only be made, transferred or applied (5) _____ the consent of the Members.

(AA) on	**(B) with**	**(D) for**
(A) from	**(C) of**	**(E) in**

(*) AA	(1)	(2)	(3)	(4)	(5)

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Exercise 3

Read the text below and think of the word that best fits each space. Use only one word in each space. Write your answers below. There is an example at the beginning (*).

Companies

There are several different types of company in England, but the most common are the private limited company and the (*) _____ limited company. The name of a private limited company must end with 'ltd' or 'limited' and a public limited company's name must end with 'plc', so you will always know what type of company it is just by looking at its name. A company is an (1) _____ business. This means that it has its own separate legal personality. Lawyers call it a legal (2) _____. Both types of company must be registered at Companies House. That is the central registry of companies. There are over 2.3 million registered companies in the UK. Every company has its own file at Companies House and anyone can look at the file to find out information about the company. You may like to visit the website of Companies House for more information. The web address is www.companieshouse.gov.uk.

The 'owners' of a company are called the (3) _____ or the shareholders. This means that they own shares in that company. A share is a part of the company's capital. A private company cannot offer shares in the company to members of the public, but a public limited company can do this.

A private limited company can have any number of shareholders. It is very common to have a private limited company with just one shareholder. In this case, the company is called a (4) _____-member company. A public limited company must have a (5) _____ of two shareholders, but usually has a lot more. Another big difference between the two types of company is the amount of share capital that the companies must have in order to incorporate and register them. Someone may register a private limited company with a very small amount of share capital, maybe only £1, but in order to register a public limited company it must have a substantial amount of share capital. This amount varies, but at the moment it is £50,000. The shareholders of a company have (6) _____ liability, in other words they will not lose any more than they paid for their shares.

When someone wants to incorporate a new company they must (7) _____ certain documents at Companies House. There are two very important documents that every company has. These are the (8) _____ of association and the articles of association. The first document sets out the essential information about the company, including the company's name, the situation of the registered office and what the company will do, known as the objects of the company. The registered office is the place to which people will send all official letters and legal notices. The articles of association set out the internal (9) _____ of the company.

There are a lot of statutory regulations that a company must (10) _____ with. The most recent legislation that governs companies in England and Wales is called the Companies Act 2006.

Example (*) public

(1)	(6)
(2)	(7)
(3)	(8)
(4)	(9)
(5)	(10)

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Listening

Exercise 4

Listen to what Paul Evans says about setting up his business and answer the following questions.

1 Why did Paul Evans leave his previous job?

2 Paul calculated how long he could live without earning any money. How long did he decide?

3 What type of business structure did Paul choose to set up?

4 What did Paul consider buying from a company formation agent?

5 What is the name of Paul's company?

6 Who are the directors of the company?

7 Does the secretary of the company currently work as a lawyer?

8 Paul talks about two share capital values. One is the authorised share capital. What is the other?

9 What is the address of the registered office of Paul's company?

10 What did Paul receive from Companies House four months ago?

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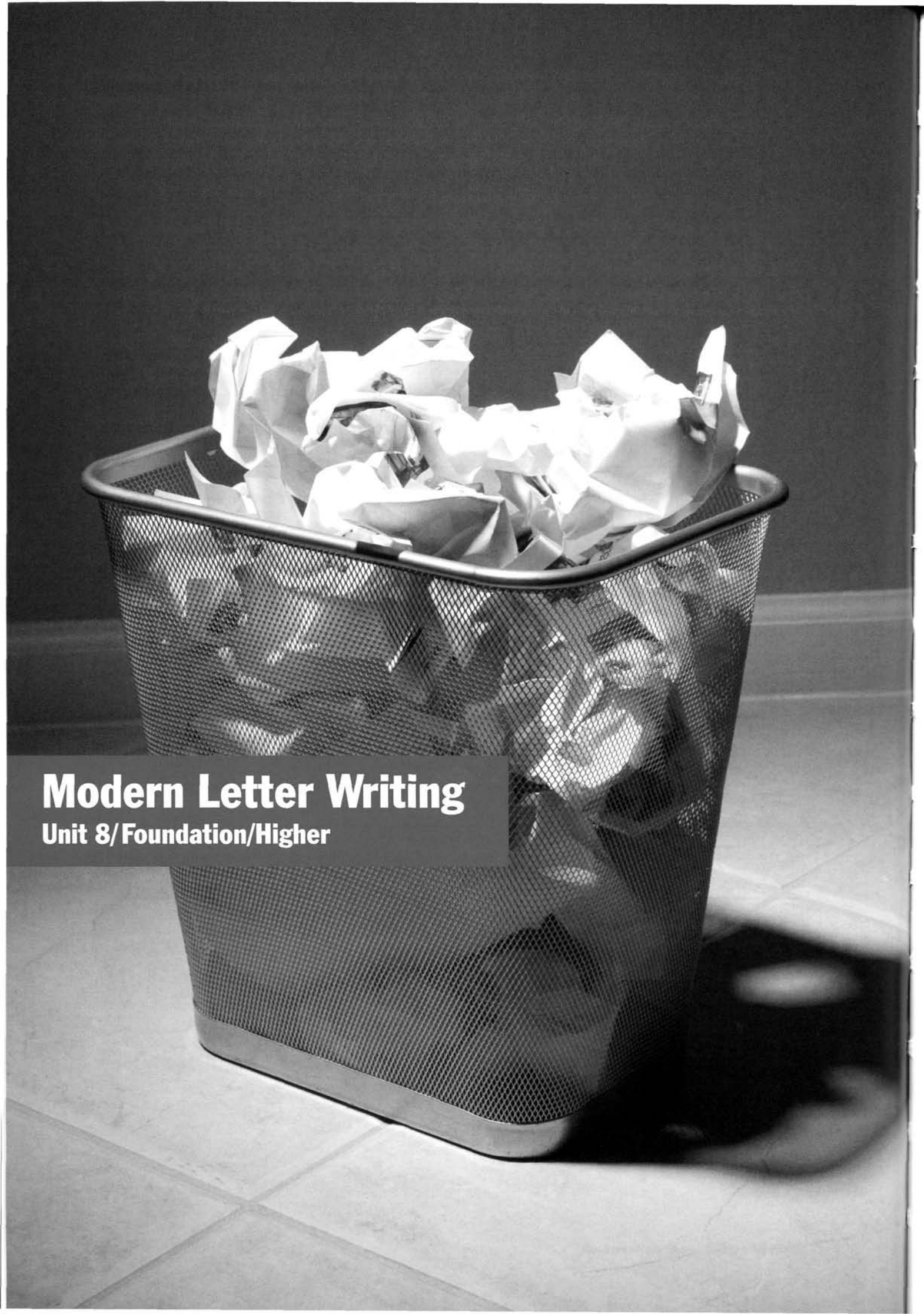


Modern Letter Writing

Unit 8/ Foundation/Higher

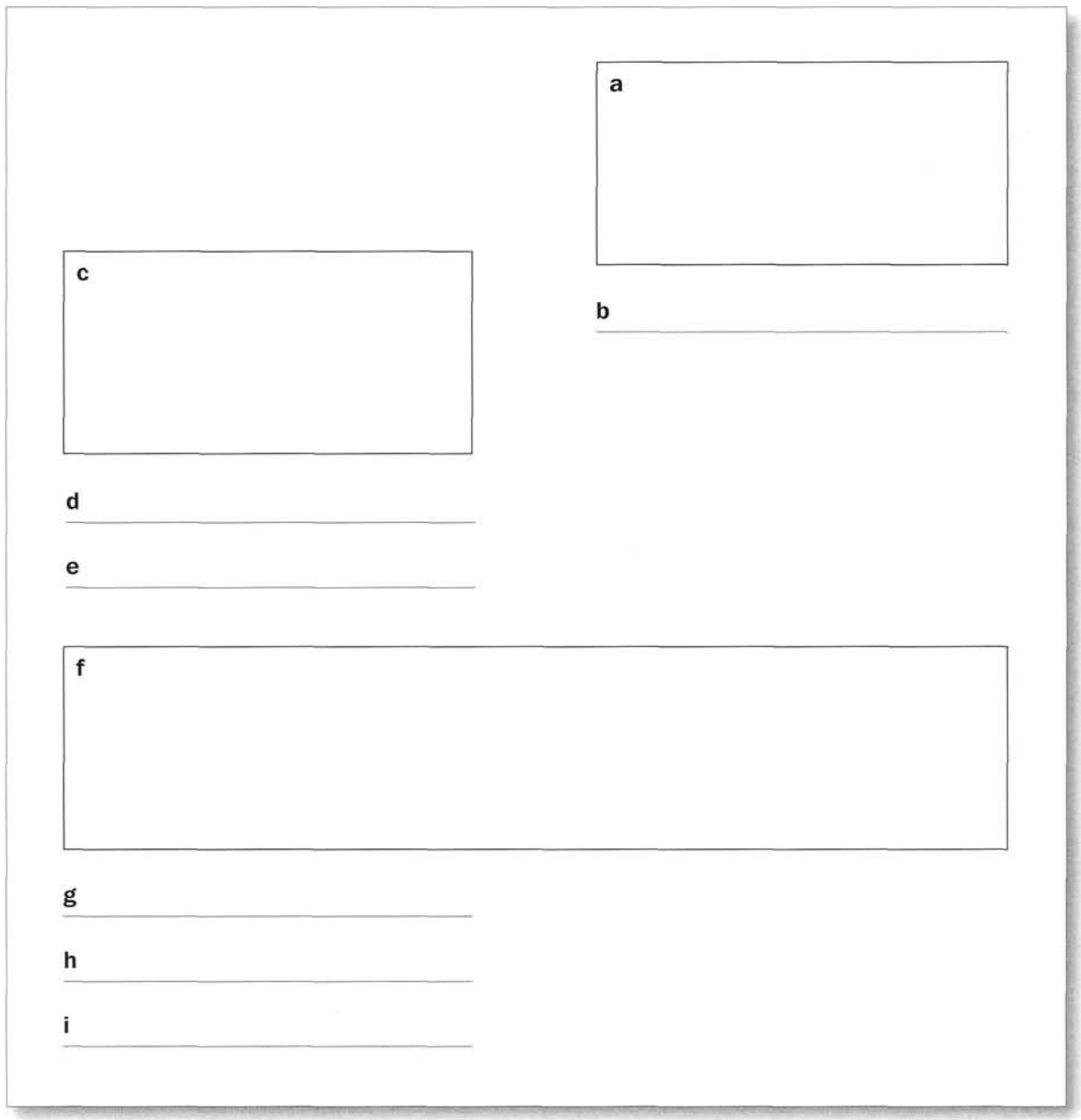
MODERN LETTER WRITING

THE LAYOUT OF A LETTER

Exercise 1

Look at the layout of the letter below. This layout is used when you are writing a letter on a blank sheet of paper. Identify these parts:

- **The salutation**
- **The date**
- **The complimentary close**
- **The body of the letter**
- **Printed signature block**
- **The signature**
- **Recipient's details**
- **Sender's address**
- **Subject line**



Notes to remember

Sender's address: you don't need to include your name here, just your address.
Recipient: this is the person you are writing to.
Recipient's details: you should include the person's name, job title and address, or as many of these details as you know.

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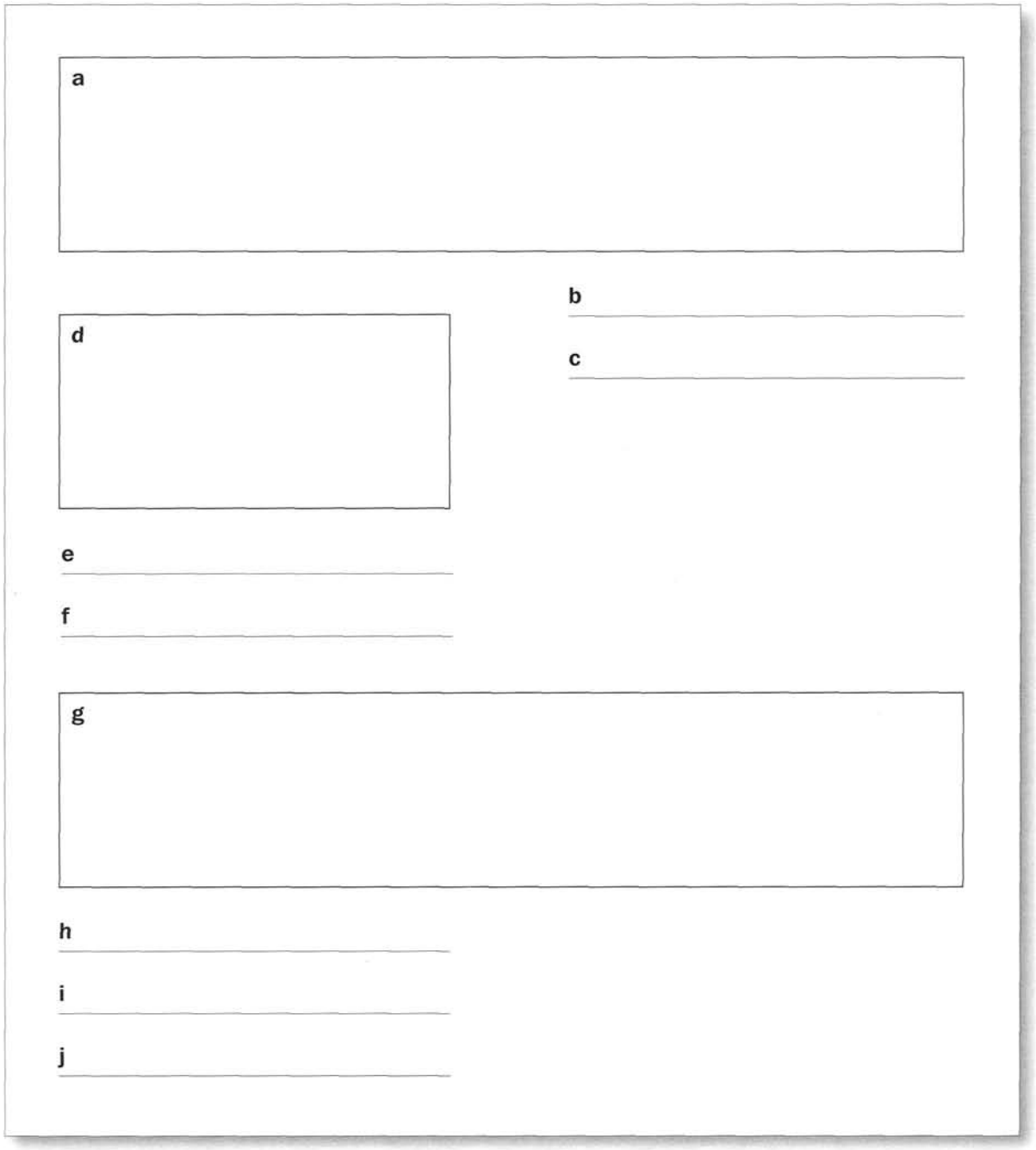
Exercise 2

Look at the layout of the letter below. This layout is used when you are writing a letter using your own headed paper, or your company's headed paper. Identify these parts:

- **The salutation**
- **The date**
- **The letterhead**
- **The complimentary close**
- **The body of the letter**
- **The signature**
- **Recipient's details**
- **Reference**
- **Subject line**
- **Printed signature block**



Notes to remember

Letterhead: this is already printed on the paper.

Recipient's details: you should include the name, job title and address, or as many of these details as you know.

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DATES

Dates can lead to problems. There isn't a right or wrong way of writing the date – you can choose the style that you prefer. But you must remember that American writers write the date with the month first, then the day, then the year. English writers put the day first, then the month, then the year.

US – MM/DD/YY

UK – DD/MM/YY

So for example, let's say that today's date is 8 May 20XX. This can cause a lot of confusion when using abbreviated dates:

US – MM/DD/YY 05.08.XX

UK – DD/MM/YY 08.05.XX

They are both the same date, but they look completely different.

Exercise 1

Look at the following ways this date (8 May 20XX) can be written and decide whether it has been written in the American format (US) or the English format (UK).

a	8/5/20XX	**US**	**UK**
b	05/08/XX	**US**	**UK**
c	May 08, 20XX	**US**	**UK**
d	08/05/XX	**US**	**UK**
e	05.08.20XX	**US**	**UK**
f	08 May XX	**US**	**UK**
g	8th May 20XX	**US**	**UK**
h	May 8th, 20XX	**US**	**UK**
i	8 May 20XX	**US**	**UK**
j	08.05.20XX	**US**	**UK**
k	May 8th 20XX	**US**	**UK**

All of them are exactly the same date but if you don't know that the US and UK have different ways of writing then problems may occur. **Our advice to you is to always write the name of the month in full. For example, 8 May 20XX**. Abbreviated dates can cause real confusion.

In the UK, the modern format of writing dates no longer includes any punctuation. For example, modern writers put 8 May 20XX instead of 8th May, 20XX.

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SALUTATIONS

This is the part of the letter that always starts with the word 'Dear'. This should be the easiest part of your letter but it often causes real problems.

Rules

You must learn these rules to make sure that you use the correct salutation.

Recipient	Salutation
A law firm, company or institution	Dear Sir or Madam Dear Sirs
Man, name unknown	Dear Sir
Woman, name unknown	Dear Madam
A person, name and sex unknown	Dear Sir or Madam
Man, name known	Dear Mr Thorley
Woman, name known, married*	Dear Mrs Ratcliffe
Woman, name known, single*	Dear Miss Singh
Woman, name known, marital status unknown*	Dear Ms Pinto
Married or unmarried couple, name unknown	Dear Sir and Madam
Married couple, name known	Dear Mr and Mrs Clarkson
Unmarried couple, names known	Dear Mr Rice and Ms Matthews
2 men, names unknown	Dear Sirs
2 women, names unknown	Dear Mesdames
A person, name and particular title known	Dear Dr Gregson Dear Judge Fox Dear Professor Silvestri
Friend or colleague	Dear Alison

***A warning about writing to women! The use of Mrs, Ms and Miss**

It is sometimes difficult to know how to address a woman. You have to think about the person you are writing to. Unfortunately there are no exact rules about this. Many married women like to be addressed as Mrs (Name). However, it is not correct to assume that you can use this title for all women. Single women may be offended by this. Also, it is often the case that women qualify as lawyers or in some other profession under their maiden name (that is the name they used before getting married) and continue to practise under this name, although they use their married name outside their professional life. So, a woman may be Ms Carruthers at work and Mrs Marston in her private life.

Similarly, it is wrong to use Miss for all women as this is thought by many women to be unsuitable for their age and status. The modern title of Ms is the preferred form of address by many women in the UK and the USA and is a safe form of title to use if you don't know much about the recipient.

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American English

American English follows the same rules as above, but when writing to a law firm or company, the salutation 'Gentlemen:' is often used. If you use this, do not put 'Dear' before 'Gentlemen:'

✓ Gentlemen:

✗ Dear Gentlemen

American English includes a period, which is called a full stop in British English, after most titles (but not after Miss), like this:

- Dear Mr. Adams
- Dear Mrs. Berkely
- Dear Ms. Reauld
- Dear Prof. Hicks
- Dear Dr. Cains
- Dear Miss Kingston

Email language

Your first email to a person should follow the salutation rules that you have learned. After that, if you are having an email conversation, you don't need to continue using a salutation as it is not necessary and sounds unnecessarily formal.

In some countries the salutation 'Dear Colleagues' is used when writing to a law firm. However, don't use 'Dear Colleagues' when writing a formal letter to UK recipients because it is not considered to be acceptable. You can use this in an email if you want to, as it is more informal.

Exercise 1

Write the correct salutation to start your letter to each of the following recipients.

Example: John Smith (a new client)

Dear Mr Smith

a Deborah Slater (a new client – you don't know if she is married)

Dear _____

b Lowe and Steele solicitors (you don't know which solicitor is going to be dealing with this case)

Dear _____

c Mattheis Schmit (a familiar client – you are on good terms with him)

Dear _____

d Maria Gabanna (a lawyer in America)

Dear _____

e Rebecca Wallis and Patrick Donaghue (new clients, brother and sister)

Dear _____

f Martin Barley (a doctor)

Dear _____

g RSGK Bank plc (you want to write to their legal department)

Dear _____

h The ToolHire Company (you want to write to its Managing Director)

Dear _____

i Jeremy and Patricia Simpson (new clients, they are a married couple)

Dear _____

j Bella Robson (you know she is married and she uses her married name)

Dear _____

k Owner of Links Ltd (you know it is a woman, but you don't know anything else about her)

Dear _____

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COMPLIMENTARY CLOSE

It is important that you match the complimentary close with the salutation that you use.

Rules

You must learn these rules to make sure you use the correct close to your letter. An easy way of remembering is to check if you are using the recipient's name. If you are, you must end with 'Yours sincerely'. If you don't know the recipient's name, you have to end with 'Yours faithfully'.

Salutation	Complimentary close
Dear Sirs Dear Sir or Madam	Yours faithfully
Dear Sir	Yours faithfully
Dear Madam	Yours faithfully
Dear Sir or Madam	Yours faithfully
Dear Sir and Madam	Yours faithfully
Dear Mesdames	Yours faithfully
Dear Mr Thorley	Yours sincerely
Dear Mrs Ratcliffe	Yours sincerely
Dear Miss Singh	Yours sincerely
Dear Ms Pinto	Yours sincerely
Dear Mr and Mrs Clarkson	Yours sincerely
Dear Mr Rice and Ms Matthews	Yours sincerely
Dear Dr Gregson	Yours sincerely
Dear Judge Fox	Yours sincerely
Dear Professor Silvestri	Yours sincerely
Dear Alison	Yours sincerely

Exercise 1

Write the correct complimentary close to end your letter to each of the following recipients. Remember, if you know their name you need to end 'Yours sincerely'. If you don't know their name, you must end 'Yours faithfully'.

Example: Dear Mr Smith

Yours sincerely

a Dear Ms Slater

_____

b Dear Sir or Madam

_____

c Dear Mattheis

_____

d Dear Ms Gabanna

_____

e Dear Sir

_____

f Dear Sirs

_____

g Dear Mr and Mrs Simpson

_____

h Dear Judge Barley

_____

i Dear Madam

_____

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American English

In American English the close to the letter often depends on how formal the letter is.

- **Very formal** – Respectfully yours, Yours respectfully
- **Formal** – Yours truly, Truly yours, Very truly yours
- **Less formal/more personal** – Yours sincerely, Sincerely yours, Sincerely

Email language

You don't need to use such a formal way of ending your email. Polite, acceptable ways of closing your email are:

- Kind regards
- Regards
- Best wishes

REFERENCES

What's a reference?

Most law firms include a reference on their letters so that they can quickly and easily identify the lawyer dealing with that particular matter and the corresponding file.

For example, Riccardo Callini may use his initials and a number to identify his files like this:

RC 112

RC 113

In his correspondence with other lawyers he will include his reference like this:

My ref: RC 112

This will usually appear under the date block in the letter.

If you receive a letter from a lawyer which states a reference you must remember to use this on your reply. You can also include your own reference. Let's say that Francesca Sanitta is replying to Riccardo. The references on her letter might look like this:

Your ref: RC 112

My ref: FS 3.4R

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SUBJECT LINES

Read these questions and answers and try to memorise the information.

- **What is a subject line?**
  It is like a heading to a letter.
- **Do I have to include a subject line?**
  Yes. The modern style of writing always includes a subject line.
- **Why do I have to include a subject line?**
  The purpose of a subject line is that when the recipient picks up the letter, he or she will immediately know what the letter is about.
- **Where does it go?**
  The subject line can go either:

a above the salutation, for example:

> **Sale of shares in Moon Ltd**
>
> Dear Mr Price

or;

b between the salutation and the first paragraph of the letter, for example:

> Dear Mr Price
>
> **Sale of shares in Moon Ltd**

- **I have sometimes seen 'RE:' before the subject line. Should I use 'RE:'?**

No. 'RE:' here means 'regarding'. The modern style of writing does not use 'RE:' before the subject line. It is a little old-fashioned now. Make your type bold font instead.

> ✓ **Contract between Mrs Bracken and Mrs Orders**
>
> ✗ RE: Contract between Mrs Bracken and Mrs Orders

- **How much detail do I need to include in the subject line?**

Very little. The subject line should be short and concise with just enough detail to allow the reader to know what the letter is about.

> ✓ **Catering contract between Mrs Bracken and Mrs Orders**
>
> ✗ Catering contract (*too little information*)
>
> ✗ Contract between Mrs Bracken and Mrs Orders concerning the catering arrangements for a reception on 8 July, which was not fulfilled (*too much information*)

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Exercise 1

Here are three subject lines. Look at the first paragraph of the following letters and write in the correct subject line.

a Outstanding invoice dated 2 June 20XX

b My client: G Harrison

Your client: R Dickens

c 46 Nightingale Way, Birmingham, BH5 4RF

Letter 1

Dear Ms Hargreaves

_____

I have been instructed by Guy Harrison in connection with a dispute between Mr Harrison and Richard Dickens. I understand from my client that you act for Mr Dickens.

Letter 2

_____

Dear Mr and Mrs Rojas

I am pleased to inform you that HFRC Bank has now formally confirmed its mortgage offer and we are now in a position to proceed with your purchase of the above property.

Letter 3

Dear Mr Lancaster

_____

I note from our records that our invoice (number 422) in respect of website design services remains unpaid. The sum of £763.50 was due on 2 August 20XX.

Email language

The subject line should go in the subject box at the top of your email. Use the same amount of detail as you would in a formal letter.

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THE BODY OF THE LETTER

Read these questions and answers and try to memorise the information.

- **Why are you writing this letter?**
  What is the purpose of your letter? You should think about this throughout your letter and make sure that it is clear to the person who will read your letter.

- **Am I using the appropriate style and language for the recipient?**
  Always think about the person who is going to be reading your letter. The 'register' of the letter is important. Register means the tone and grade of language. If you are writing to another lawyer, the register of your letter will be different to a letter you are writing to a client who has no legal knowledge at all. Whatever style you choose for your letter, you must remember to use the same style throughout the letter. Don't mix the style in the same letter, as this is confusing. Be consistent. We will look at register in more detail later in this unit.

- **Have I included the right amount of detail?**
  Again, think about the person who will be reading the letter. If you are writing to a client with no legal knowledge, you will need to explain any legal vocabulary that you use. You should not need to do this if you are writing to another lawyer.

- **Is all the information relevant, accurate and clear?**
  If you are writing a letter of advice, check whether you have covered all the main points. Have you answered any questions that have been raised? Your letter should be clear and unambiguous. Don't include a lot of unimportant details.

- **Am I using the appropriate tone? For example, is the letter friendly, formal, helpful, forceful?**
  This is another part of register. In the same way as you use different tones of voice when you speak to someone, depending on whether you are pleased, angry, disappointed, informative etc, so the tone of your letters will vary. You have to make sure that you are using the right tone for the purpose of your letter.

- **Have I set out my letter in short, concise blocks?**
  If you just write one or two long blocks of information, this is difficult to read. It is much better to divide the information into short paragraphs, with one main idea to each paragraph.

- **Am I using a logical order of sentences and paragraphs?**
  You need to check that there is a natural flow throughout the letter. There should be logical links between the sentences and paragraphs.

- **Are my sentences the right length?**
  If your sentences are too long, the reader will lose some of the detail. You should aim to use a maximum of 25 words in each sentence.

- **Have I used accurate grammar and punctuation?**
  Remember to check your letter carefully before it is sent. Accuracy is very important for lawyers. Look for spelling errors, correct use of prepositions, accurate tenses. It is very important in a formal letter not to use contractions or short forms, for example, I'm, don't, isn't, etc. Always write the two separate words in full.

✗ I'm	✗ Don't	✗ Didn't	✗ I've
✓ I am	✓ Do not	✓ Did not	✓ I have

Remember this as a checklist for your letter:

Purpose
Register
Order
Clarity
Accuracy
Layout
Length

PROCALL

To help you remember your checklist:
People **R**arely **O**rder **C**hampagne
After **L**osing **L**itigation!

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PUTTING A LETTER TOGETHER

Exercise 1

Here are the parts of a letter which have been jumbled up. It is a letter to a bank from one of the bank's customers. Put them into the correct order.

a It appears that this amount of £389.92 has been incorrectly debited from my account. This resulted in my being overdrawn on my account at the end of the month. You have then charged me a fee of £25 for an unauthorised overdraft.

b 27 Limetree Avenue
Chatsworth
CH4 7JL

c G Hardwick

d It shows a debit of £389.92 on 2 May 20XX. This transaction did not take place. However, I did use my debit card on that date to pay for a shirt which cost £38.99. I enclose a copy of the debit card receipt, which clearly shows this transaction.

e Yours faithfully

f 5 June 20XX

g I am not pleased about this. Please rectify this error immediately and refund the £25 overdraft fee to my account.

h Dear Sir
My Account number 6387290

i I look forward to hearing from you with confirmation that this error has been corrected.

j The Manager
HBCR Bank Plc
1 High Street
Chatsworth, CH1 4GP

continued

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k *Gary Hardwick*

l I am writing with reference to my bank statement dated 31 May 20XX, which shows the account as being overdrawn. However, on checking the statement it is clear that it contains an error.

1	3	5	7	9	11
2	4	6	8	10	12

THE REGISTER OF LETTER WRITING

Register refers to the style and tone of your letter. The register that you use will change depending on who you are writing to. If you are writing to another lawyer, you will use legal vocabulary in your letter and write in a more formal style. If you are writing to a client who has no legal knowledge, you will use a different register. In this case, you will need to explain any legal vocabulary and perhaps use a more personal style.

Whoever you are writing to, remember to use a modern style of English.

Exercise 1

Look at these three sentences. A lawyer is writing a letter to another lawyer about the sale of a house. The sentences each contain the same information, expressed in different ways. Match each sentence with the different styles listed in the blue box.

a I have the pleasure of enclosing herewith the draft sale and purchase agreement in respect of the property hereinafter known as 25 Laurel Way, Chatsworth, for your perusal.

b With this letter I have included the first version of the sale document regarding the house 25 Laurel Way, Chatsworth.

c I am pleased to enclose the draft contract in respect of 25 Laurel Way, Chatsworth (the Property).

Modern, plain English as used by professional lawyers (1)

Simple, unprofessional sentence (2)

Old-fashioned, overlong sentence (3)

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Exercise 2

In the following examples, which is the modern, professional style of writing?

a

1	I act for Frank Edmunds.	✓	✗
2	I'm working for Frank Edmunds.	✓	✗
3	I have been appointed to represent Mr Frank Edmunds.	✓	✗

b

1	I'm writing to ask you about the cost of your accountancy services.	✓	✗
2	The purpose of this letter is to make enquiries about the level of the fees that you charge pertaining to accountancy services rendered.	✓	✗
3	I am writing to enquire about your fees in respect of accountancy services.	✓	✗

c

1	Please provide me with the following documents:	✓	✗
2	Kindly furnish me with the following documents:	✓	✗
3	Can you send these documents:	✓	✗

d

1	Regarding your letter written on 15 November that's setting out accusations about my client.	✓	✗
2	With reference to your communication of 15 inst, which pertains to alleged activities by my client.	✓	✗
3	I refer to your letter of 15 November 20XX, which contains various allegations against my client.	✓	✗

e

1	I await hearing from you with all expedition.	✓	✗
2	Please contact me as soon as possible.	✓	✗
3	Can you call me please?	✓	✗

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Exercise 3

Read the following letter which contains a mix of styles. Look at the underlined phrases. Some phrases are too informal and others are too old-fashioned. Replace each of the underlined phrases with one of the phrases from the blue box so that the register of the letter is a consistent, modern style.

Dobson & Dean
44 Carliol Street
Morpeth
MP1 2DD

Mr and Mrs J Coogan
1 The Meadows
Morpeth
MP2 7GH

25 October 20XX

Ref: CD 554

Dear Mr and Mrs Coogan

Your dispute with Total Kitchens

I have now received a response from Total Kitchens to the letter that (*) you told me to write for you. I am afraid that the manager of the company has denied your allegation that they have (**a**) broken their promise to you. Under the circumstances I suggest that we (**b**) start a case in the court in order to (**c**) ask for some money for your losses. Having looked at the evidence that you have given me I (**d**) deem that the court will concur with you and find in your favour.

I must tell you that according to current civil procedure rules (**e**) we've got to send them what is known as a 'letter before action' before we actually begin any legal proceedings. This letter gives them one final chance to acknowledge your claim and make us an offer to settle the matter. If they (**f**) do not avail themselves of this opportunity to act in this way then we are able to proceed with our claim.

(**g**) Kindly furnish me with your confirmation that I should send this letter before action. Please do not hesitate to (**h**) ring me or visit me if I can be of further help.

Yours sincerely

C. Dobson

Christopher Dobson

- **I wrote on your behalf** (*)
- **consider that the court will agree** (1)
- **claim damages** (2)
- **we must** (3)
- **breached their contract with you** (4)
- **fail to respond** (5)
- **contact me** (6)
- **Please confirm your instructions** (7)
- **take legal action** (8)

a	b	c	d	e	f	g	h

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Exercise 4

Look at these sentences which are from letters written by a lawyer. The underlined word or phrase in each sentence is too ***old-fashioned****. Replace it with a good alternative.*

a We deem that you are not acting in accordance with your undertakings.

b The parties named hereinbefore agree as follows:

c I am writing pertaining to your letter dated 15 July 20XX.

d We respectfully request that you telephone us.

e I have received a letter from the solicitors acting for the vendees confirming that their clients can now proceed with the purchase of your property.

f Please contact me with all due haste.

a	**d**
b	**e**
c	**f**

Exercise 5

Now look at these sentences which are from letters written by another lawyer. The underlined word or phrase in each sentence is too ***informal****. Replace it with a good alternative.*

a My client says that this point is true.

b In your letter of 10 December you definitely gave up your right to repayment.

c Your actions amount to an unequivocal break of the contract.

d You haven't paid any money in the last three months and your mortgage account is now in arrears of £2400.

e The total sum due to people that you owe money to is £6527.

f We consider that you are fully to blame for the injury suffered by our client.

a	**d**
b	**e**
c	**f**

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THE CONTENT OF THE LETTER

Often the hardest part is thinking how to start each sentence of your letter.

Exercise 1

Look at the following extracts from sentences. Complete each phrase with appropriate words.

a

Starting the main body of a letter

We _____ writing _____ confirm that...

_____ you for _____ letter _____ 12 June.

_____ reference _____ our telephone conversation...

b

Giving the recipient some good news

We are _____ to _____ you that...

_____ am _____ to _____ you that...

c

Giving the recipient some bad news

_____...

We _____ to _____ you that...

_____ am _____...

d

Asking the recipient to do something

We _____ be _____ if _____ _____...

I would _____ it _____ you could...

_____...

e

Apologising for something that you have done, or failed to do

I _____ _____ about the delay _____ replying.

We _____ for any _____ _____.

Please _____ our _____.

f

Enclosing documents with your letter

I _____...

_____ find _____...

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g

Ending the letter and referring to future contact, either a meeting or a reply to your letter

_____ you have any _____, please _____ _____ _____ to _____ us.

If we _____ help _____ _____ way, _____ let _____ _____.

I look _____ to _____ _____ you.

TYPICAL SENTENCES IN LEGAL LETTERS

The following phrases are useful when you are writing a letter on behalf of your client. You should try to memorise them.

Opening Lines

- We are instructed by Joseph Adams and understand that you act for Elliot Fletcher.
- Thank you for your letter of 7 July. We confirm that we act for Elliot Fletcher.
- I act on behalf of ...
- I refer to your letter dated 16 August.

Explain why you are writing

- I am instructed that ...
- We have seen your letter of 14 September to our client ...
- I am writing to ...
- We will take our client's instructions and will contact you again soon.

Explain what you want the recipient to do

- Please sign the enclosed agreement in the place marked with a cross, and return it to me by 21 June.
- We would be grateful if you will take your client's instructions as soon as possible.

Refer to future contact

- If I do not hear from you within 14 days of the date of this letter, I am instructed to start legal proceedings immediately.
- I look forward to hearing from you as soon as possible.
- If you have any questions, please do not hesitate to contact me.

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Exercise 1

Put one of the phrases that you have learned on the previous page into each space in this letter.

Kyle and Co
10 Kings Square
Liverpool
L1 9RF

Mr Peter Denby
48 Eastgate
Liverpool
L2 5AA

10 August 20XX

Ref: VH 2.02

Dear Mr Denby

Letter before action

(a) _____ Deborah Hasting and am writing in connection with the building contract that you entered into with my client on 14 March 20XX.

(b) _____ the following contractual obligations remain outstanding:

- complete the fitting of a new kitchen by the agreed date of 26 June 20XX
- carry out repairs to a garden wall to a satisfactory standard at Mrs Hasting's home
- clear rubbish and building material from Mrs Hasting's driveway.

(c) _____ notify you that you must take immediate action to remedy these matters. **(d)** _____

_____

(e) _____ and hope that this matter can be resolved without the need for further action.

Yours sincerely

Vanessa Hope

Collocation bank

- Clients **consult** lawyers
- Clients **instruct** lawyers
- Lawyers **act for** clients
- Lawyers **advise** clients
- Lawyers **represent** clients
- Lawyers **act on behalf of** clients
- Lawyers **take** clients' instructions
- Lawyers **start** legal proceedings (no article 'the' before legal proceedings)
- Lawyers **commence** legal action (uncountable noun – no article 'the' or 'a' before legal action)

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m

Preposition bank

- to act **for** someone
  'I am acting **for** Ms Francesca Peroni.'
- to act **on** behalf **of** someone
  'We act **on** behalf **of** Treadmill plc.'
- to be instructed **by** someone
  'We are instructed **by** Mr and Mrs Ross.'
- to do something **by** a date (to impose a deadline)
  'Please return the agreement to me **by** 2 November.'
- **within** a period **of** time
  'If we do not hear from you **within** 14 days **of** the date **of** this letter...'
- **until** a date (to set out a timescale)
  'You have **until** 12 January to file a response.'
- to look forward **to** something
  'I look forward **to** meeting you.'
- to hear **from** someone
  'I look forward to hearing **from** you.'

LETTER WRITING CLINIC

The ten most common problems when non-native speakers of English write letters in English

Some mistakes are common to almost every nationality when people write in English. When you write a letter, you can improve it by asking yourself if some parts of it are:

1 **Too informal.** A letter should be professional even when written in a plain English style. The more informal style of an email for example, is not acceptable in a letter.

2 **Too old-fashioned.** A letter should be formal but this does not mean using language that is out-of-date. Out-of-date language includes what a native English speaker might refer to as 'flowery' phrases from previous centuries.

3 **Too abrupt.** Most languages are more direct than English. You can improve a letter by being sensitive to the way that certain things are expressed when they are written in English.

4 **Using archaic words.** Modern letters should not include words such as 'hereunder' or 'abovementioned'.

5 **Using contract vocabulary.** Some formal, general English words are acceptable in contracts and other legal documents but are not natural when used in letters.

6 **Using uncountable nouns incorrectly, or even inventing nouns that don't exist at all.** Be aware of which nouns in English are uncountable. If you are unsure of a noun, check your dictionary.

7 **Confusing a verb with a noun.** Are you sure, for example, of the difference between 'advice' and 'advise'? A computer will not necessarily correct this type of mistake for you.

8 **Using articles incorrectly or not at all.** Make sure that 'a' and 'the' are used correctly, especially if your own language does not use articles.

9 **Using the wrong collocation.** For example, a lawyer 'acts for' a client and does not 'work for' a client. This is an example of accurate verb/noun collocation.

10 **Using the wrong preposition.** A normal, one-page letter can contain 50 or more prepositions. If lots of the prepositions are wrong, unfortunately it will give a very bad impression to the reader.

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The dos and don'ts of letter writing

Do

✓ use plain English

✓ be consistent in style

✓ be formal but not old-fashioned

✓ keep your sentences short

✓ check your grammar and punctuation.

Don't

✗ use unnecessarily difficult words or phrases

✗ mix different styles, for example, change from formal to informal

✗ use long sentences or long paragraphs

✗ use language appropriate to written contracts in letters

✗ be too abrupt. It can be considered impolite to be very direct about some subjects, particularly when writing in English.

Exercise 1

Look at the letter on the next page. Some parts of the letter are underlined. Read the letter and match the underlined parts of it with the problems listed below.

☐ Mistake with **uncountable noun**. (1)

☐ Mistake with **preposition**. (2)

☐ Mistake of **confusing a verb with a noun**. (3)

☐ Mistake of using **language that is too informal**. (4)

☐ Mistake with **collocation**. (5)

☐ Mistake of using an **archaic word**. (6)

☐ Mistake of using a very **'flowery', old-fashioned phrase**. (7)

☐ Mistake with an **article**. (8)

☐ Mistake of using a word that is appropriate in a **contract**. (9)

☐ Mistake of being too direct or **abrupt**. (10)

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Cooper & Co.
4 Barrow Lane
Newport Pagnell
NP2 1DG

Mr A Robertson
10 Pontlands Lane
Newport Pagnell
NP6 5HY

8 May 20XX

Dear Mr Robertson

Your contract with Stephen Collier

I act for Stephen Collier. Mr Collier has consulted me regarding the dispute between you.

Mr Collier informs me that you entered into a contract with him in May of last year. It was agreed that you would act in the capacity of consultant for my client to assist him in his business of importing goods into this country from Eastern Europe. My client tells me that you have not fulfilled your obligations under **(a)** the aforesaid contract and that he is losing income as a result.

I am instructed that you assured my client that you had excellent business contacts in Warsaw and Prague and could **(b)** furnish my client with goods from those areas at a much more competitive price than he is currently paying. Mr Collier tells me that he covered the costs of two **(c)** travels that you made to visit Poland and the Czech Republic in July and September of last year respectively. He has provided me with all of the receipts **(d)** in respect to these trips.

As my client has seen no benefit from these trips abroad and has no **(e)** proofs that you made the trips, we request evidence of your activity on my client's behalf or a full reimbursement of my client's outlay concerning this project. **(f)** My client wants to know how you spent his money.

Naturally my client has no wish to continue his business relationship with your consultancy firm and we require the immediate return of any paperwork or other confidential documents that you may have in your possession with regard to my client's business affairs.

If we do not receive a satisfactory response from you within 14 days of receipt of this letter then I have **(g)** said to my client that he has grounds to start proceedings against you without further notice. Please note that if this matter comes to **(h)** the court then you will **(i)** make additional costs.

(j) I would be most grateful if you would acknowledge receipt of this communication at your earliest convenience.

I look forward to hearing from you.

Yours sincerely

David Goldman

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Exercise 2

Improving the letter. Think about what you know about common mistakes in letter writing and complete the same letter below in a more appropriate way. There are sample phrases in the answer key, which give you one way of completing this exercise. However, there is more than one possible correct answer.

Dear Mr Robertson

Your contract with Stephen Collier

I act for Stephen Collier. Mr Collier has consulted me regarding the dispute between you.

Mr Collier informs me that you entered into a contract with him in May of last year. It was agreed that you would act in the capacity of consultant for my client to assist him in his business of importing goods into this country from Eastern Europe. My client tells me that you have not fulfilled your obligations under (**a**) _____ contract and that he is losing income as a result.

I am instructed that you assured my client that you had excellent business contacts in Warsaw and Prague and could (**b**) _____ my client with goods from those areas at a much more competitive price than he is currently paying. Mr Collier tells me that he covered the costs of two (**c**) _____ that you made to visit Poland and the Czech Republic in July and September of last year respectively. He has provided me with all of the receipts (**d**) _____ these trips.

As my client has seen no benefit from these trips abroad and has no (**e**) _____ that you made the trips, we request evidence of your activity on my client's behalf or a full reimbursement of my client's outlay concerning this project. (**f**) _____

_____

Naturally my client has no wish to continue his business relationship with your consultancy firm and we require the immediate return of any paperwork or other confidential documents that you may have in your possession with regard to my client's business affairs.

If we do not receive a satisfactory response from you within 14 days of receipt of this letter then I have (**g**) _____ my client that he has grounds to start proceedings against you without further notice. Please note that if this matter comes to (**h**) _____ then you will (**i**) _____ additional costs.

(**j**) _____

_____

I look forward to hearing from you.

Yours sincerely

David Goldman

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CORRECTING COMMON MISTAKES IN LETTER WRITING

Exercise 1

Too informal

Look at the following sentences. They are all too informal to be included in a professional letter. Match each sentence with the more formal alternative from the blue box below.

a I was hired by Mr Felton as his lawyer.

b My thanks for your letter of 6 May 20XX. Our client has now told us what he wants to do.

c I think the judge will agree to what we suggest.

d Mr Felton wants to have back the money that he has spent on hiring lawyers for this case.

e Tell me if you agree to do what we say we want in this letter.

Please confirm that you are in agreement with this course of action. (1)

Thank you for your letter of 6 May 20XX. We have now had the opportunity of taking our client's instructions. (2)

The court is likely to be sympathetic to our proposal. (3)

My client will be seeking costs. (4)

I am instructed by Mr Felton. (5)

Exercise 2

Too old-fashioned

Look at the following sentences. They are all too out-of-date to be included in a professional letter. Complete the more modern alternative that follows each sentence by filling each gap with a suitable word.

a To my most distinguished colleague, Ms Booth.

_____ Ms Booth.

b I am most honoured to write to you as the legal representative of James Black, Esquire.

I am _____ by _____ James Black.

c My client laments that his two previous letters have not received response nor payment.

Despite two letters _____ payment my client has _____ no _____.

d I would be grateful if you would kindly acknowledge receipt of the documents enclosed herewith.

Please confirm that you have _____ the _____ documents.

e I advise that we initiate negotiations at your earliest convenience to resolve this issue in an amicable fashion.

I suggest that this matter can be _____ through negotiation and that we _____ this process as soon as possible.

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Exercise 3

Too abrupt

Look at the following sentences. They are all too abrupt (impolite) to be included in a professional letter. Each sentence also contains a mistake, which is highlighted. Some of the mistakes are from the list of common mistakes and some are not. First of all, correct the mistake that each sentence contains.

a I need you to send me more **informations** about this.

_____

b If you do not pay us now, we will take you **before the** court.

_____

c I don't think what you **told about** my client's behaviour in this situation is correct.

_____

d I have more things that I want you to **explain me**.

_____

e Your client definitely said that my client could **starting building** on this land.

_____

Exercise 4

Below there are some polite alternatives to the sentences in Exercise 3. Match each sentence with the correct polite alternative sentence.

☐ I need further information and would be grateful if you could forward the following: (1)

☐ I am writing with some additional enquiries. (2)

☐ We cannot accept your interpretation of our client's conduct in this matter. (3)

☐ Your client gave his express permission for building work to begin. (4)

☐ If we do not receive payment immediately we will issue proceedings without further notice. (5)

Exercise 5

The following sentences all use archaic words. It is not appropriate to include words like this in a modern letter. It used to be true to say that archaic words made letters more formal. However, in the twenty-first century, modern law firms don't use archaic words in correspondence with other law firms or clients. Underline the archaic word or words in each sentence.

a I hereby advise you that I am instructed by Mrs Shirley Malloy.

b My client informs me that you have failed to respond to the abovementioned letter.

c Due to your conduct in this matter, we have no option but to issue proceedings forthwith.

d I attach a copy of the contract hereto.

e Please supply me with the information that I request hereunder.

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Exercise 6

Archaic words can often be deleted and it will make no difference to the meaning of the sentence. Sometimes it is necessary to write the sentence in a slightly different way to make sure it is polite and grammatically correct. Write the sentences in Exercise 5 again by filling each gap in the sentences below with an appropriate word.

a I _____ on behalf of Mrs Shirley Malloy.

b My client informs me that you have not responded to _____ letter.

c Your _____ leaves us with no choice but to issue proceedings _____.

d I have _____ a copy of the contract.

e Please supply me with the information _____ in this letter.

Exercise 7

Lawyers often use very formal words when drafting contracts. However, many of these words are not appropriate when writing a letter. The underlined words in the following sentences can be replaced with a word or phrase from the box below. Choose the correct word or phrase for each sentence and write it in the space provided.

consider	**start**	**obtain**	**According to**
people	**agreed**	**ended**	**clear**
If	**perform**	**provide**	**connected with**

a Kindly <u>furnish</u> me with the following information.

Answer: _____

b <u>In the event that</u> I am unable to attend the meeting on 4 January, I will inform you by email at least 24 hours in advance.

Answer: _____

c <u>Pursuant to</u> the local planning regulations, I do not think that you will get permission to build on land that is so close to the river.

Answer: _____

d My client will <u>procure</u> all necessary documents by the end of this month.

Answer: _____

e Your client has failed to <u>execute</u> his obligations under the contract.

Answer: _____

f This case has had a negative effect upon a great many <u>persons</u>.

Answer: _____

g We <u>deem</u> it necessary to carry out an independent audit of the company accounts.

Answer: _____

continued

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h Your client determined the contract on the 28 July.

Answer: _____

i Mr Smith undertook to complete the building work within three weeks.

Answer: _____

j We will instigate legal action without further notice.

Answer: _____

k Please send me a copy of all documents pertaining to this matter.

Answer: _____

l Your client gave his express consent to allow my client access to all of the partnership's financial information.

Answer: _____

Exercise 8

Uncountable nouns

The following sentences contain nouns that are used incorrectly because they are uncountable. Underline the uncountable noun in each sentence.

a My client has suffered many damages due to this breach of contract.

b I am writing to request advices about starting a new business in the USA.

c You should buy an insurance in case you are sued under the indemnity clause of the contract.

d She doesn't have many evidences to support her case.

e My client has a valuable evidence to support her case.

f My client requests compensations for the earnings that she has lost as a result of the breach of her employment contract.

g Do you have any proofs to support what you are alleging?

h I have carried out many researches into this matter on your behalf.

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Exercise 9

Here are the sentences from Exercise 8 again. Complete each sentence with the correct word or phrase from the blue box below.

a lot of	**proof**	**piece of**	**a great deal**
some	**policy**	**compensation**	**much**

a My client has suffered _____ damage due to this breach of contract.

b I am writing to request _____ advice about starting a new business in the USA.

c You should buy an insurance _____ in case you are sued under the indemnity clause of the contract.

d She doesn't have _____ evidence to support her case.

e My client has a valuable _____ evidence to support her case.

f My client requests _____ for the earnings that she has lost as a result of the breach of her employment contract.

g Do you have any _____ to support what you are alleging?

h I have carried out _____ of research on your behalf.

Exercise 10

Some nouns are more difficult to remember than others. Look at this list of verbs and circle the correct noun for each verb.

Example: *verb*: allege
noun: (allegation) allegement

a *verb*: disturb
noun: disturbment/disturbance

b *verb*: admit
noun: admittation/admission

c *verb*: amend
noun: amendance/amendment

d *verb*: dismiss
noun: dismission/dismissal

e *verb*: respond
noun: response/respondment

f *verb*: abate
noun: abatement/abation

g *verb*: distinguish
noun: distinction/distinguishment

h *verb*: lose
noun: losement/loss

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Exercise 11

Confusing a verb with a noun

The following sentences use a verb when they should use a noun. For each sentence write the correct noun in the space provided.

a Please send me your advise about this problem.

Answer: _____

b I look forward to your respond.

Answer: _____

c My travel to England was by plane.

Answer: _____

d The euro is weak against the dollar at the moment and this has had a bad affect on business.

Answer: _____

e Do you have prove of what you say?

Answer: _____

Exercise 12

Using articles incorrectly

Look at the following sentences. Each sentence contains an article. Decide if each sentence is correct or incorrect.

a	How long was the yesterday's meeting?	✓	✗
b	I have an appointment with Anthony Costello in the morning.	✓	✗
c	The clause 5 of this contract deals with termination.	✓	✗
d	The force majeure clause is at the end of the contract.	✓	✗
e	The court in Dobson Street was built in 1855.	✓	✗
f	If you do not pay my bill I will see you in the court!	✓	✗
g	The damages awarded to my client amounted to £15,000.	✓	✗
h	My client was awarded £15,000 in the damages.	✓	✗

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Exercise 13

Using the wrong collocation

Look at the following sentences. Each sentence contains two collocations that are not correct. Choose the correct words from the box below to complete each sentence with accurate collocations.

denies	**take out**	**due**	**rate**	**outstanding**
waste	**dispute**	**find**	**incur**	**pay**

a What interest level can you offer us if we borrow the loan?

What interest _____ can you offer us if we _____ the loan?

b My client does not wish to lose more time on this matter, nor to spend any further expense.

My client does not wish to _____ more time on this matter, nor to _____ any further expense.

c Payment for these goods was owed on 21 April and we request payment of the late amount immediately.

Payment for these goods was _____ on 21 April and we request payment of the _____ amount immediately.

d The legal quarrel between your client and the bank arose because your client did not reimburse his debt.

The legal _____ between your client and the bank arose because your client did not _____ his debt.

e My client refuses your allegations and if you pursue this matter further we think the court will judge in our favour.

My client _____ your allegations and if you pursue this matter further we think the court will _____ in our favour.

Exercise 14

Using the wrong preposition

The sentences below each contain a mistake in the use of prepositions. Each sentence contains one mistake. Underline the preposition that is not correct in each sentence.

a Thank you for instructing Morton and Partners to act for your behalf.

b I am a partner in this firm and will have overall responsibility of your case.

c We are obliged to add VAT to our charges, currently of the rate of 17.5%.

d All payments you make to this firm will be placed at a client account in your name.

e This firm is audited from external auditors from time to time.

f We cannot accept responsibility of intercepted emails or viruses and we will assume safe arrival of emails 24 hours after they are sent.

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Exercise 15

Complete the sentences below with the correct preposition.

a Thank you for your letter _____ 10 December.

b Further _____ our telephone conversation this morning I am pleased to confirm my client's acceptance of your offer.

c Our client will also be seeking compensation _____ his loss of salary calculated from the date of the accident.

d You will be able to claim certain other expenses incurred _____ a result of the accident.

e Perhaps you could let me know if our proposal is acceptable _____ you.

Exercise 16

In the sentences below circle the correct preposition from the two options offered.

a The most important provisions **in/for** the agreement are as follows:

b Clause 7 covers the sale **for/of** partnership assets.

c Clause 8 covers partnerships **at/with** other entities.

d Clause 9 covers restrictions on transferring shares **to/for** third parties.

e Please let me know if there are any other matters **for/on** which you require advice.

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TOLES HIGHER EXAM PRACTICE

Exercise 1

Look at the letter below. A lawyer has written it to his client. Parts of the letter are written in an inappropriate way. They are underlined. Rewrite the underlined words in a more appropriate way. There is an example at the beginning (*).

Hayden, Hind and Co
1 Waterloo Square
London
N36 1LL

Ms Julia Payne
11 Olivier Mews
London
N36 1BQ

1 July 20XX

(*) Most esteemed Julia Payne

Your dispute with Callaghan & Sons Ltd

I have now had a response to the letter that I sent to Callaghan & Sons Ltd (**1**) for you on 14 June. I am afraid that the manager of the company, Paul Callaghan, has (**2**) refused your claim that they (**3**) have dishonoured the contract that they entered into with you in March of this year. I enclose a copy of Mr Callaghan's letter, which we received yesterday.

The company's attitude to your claim is much as we expected. Mr Callaghan seems to be relying on the fact that he had no formal written contract with you, to escape his (**4**) responsibility for the (**5**) bad work that he carried out at your home.

Under the circumstances I suggest that we issue Callaghan & Sons with a letter before action, in which we will state that you intend to (**6**) go to the court without (**7**) saying more if this matter is not dealt with to your satisfaction. Having looked at the evidence that you have given me, including the photographs of the work that Callaghan & Sons did in March and April, I have every confidence that your claim will (**8**) win.

I would be grateful therefore if you would consider how you wish to proceed and let me know (**9**) quickly.

Please do not hesitate to (**10**) call me or visit me if I can be of further assistance.

I look forward to hearing from you.

Yours sincerely

M. Holman

Miles Holman

(*) Dear Ms Payne

(1) _____ (6) _____

(2) _____ (7) _____

(3) _____ (8) _____

(4) _____ (9) _____

(5) _____ (10) _____

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Exercise 2

Look at the letter below. A lawyer has written it to another lawyer. Parts of the letter are written in an inappropriate way. They are underlined. Rewrite the underlined words in a more appropriate way. There is an example at the beginning (*).

Martineau & Emery
7 Bishop's Market
Liverpool
L1 8SM

Mr Martin Lowe
Bell Bainbridge, Solicitors
Dickens Square
Liverpool
L1 7JK

16 July 20XX

Dear (*) Colleague

Taylor v Abernathy Sports & Leisure Ltd

I refer to your letter addressed to my client (**1**) which has the day 14 July 20XX written on it. This letter is in connection with the (**2**) law suit that has been made against my client, Abernathy Sports & Leisure Ltd, by your client, Mr Taylor. Mr John Rogerson at my client's head office has been dealing with this (**3**) quarrel to date, and he has supplied me with copies of all of the relevant documents.

To begin with the (**4**) legal reasons for Mr Taylor's claim, I understand that his complaint is in respect of an injury to his neck that your client (**5**) had during a session in my client's Liverpool gymnasium and fitness centre. Your client claims that he was using a new weights machine and that (**6**) no-one from my clients' employees was available to give Mr Taylor instructions as to the safe use of the machine before he was allowed to use it. As a result of this Mr Taylor injured his neck and claims my client was in breach of the duty of care owed to him. In short, Mr Taylor claims that my client was (**7**) not careful.

I see from the claim form that Mr Taylor is claiming for loss of (**8**) his money from working as well as for (**9**) moral damage.

My client intendeds to file a defence to this allegation on the basis that several employees can provide strong evidence to the contrary. In addition, my client will seek to recover from Mr Taylor any (**10**) money for lawyers and court expenses arising from this matter. Perhaps your client would like to reconsider his claim in the light of this information.

I look forward to hearing from you.

Yours sincerely

B. Aitchison

Beth Aitchison

(*) Mr Lowe

(1) _____ (6) _____

(2) _____ (7) _____

(3) _____ (8) _____

(4) _____ (9) _____

(5) _____ (10) _____

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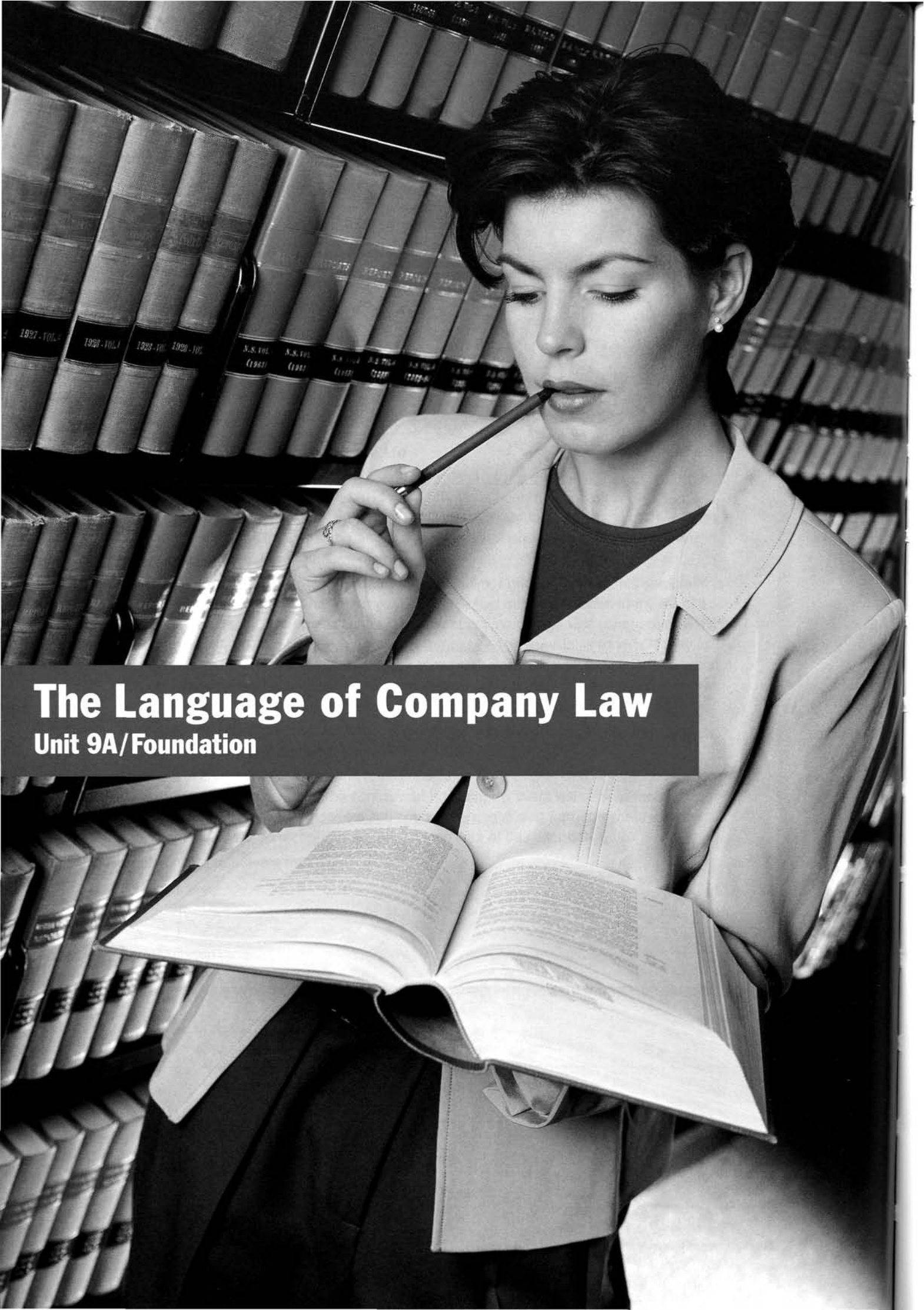

The Language of Company Law

Unit 9A/Foundation

THE LANGUAGE OF COMPANY LAW

WHO RUNS A COMPANY?

Exercise 1

Jessica Ryder is a law student at the University of Chatsworth. She must write a short paper about the people who are connected with a company. The most important words are in the key vocabulary below. Read the text and answer the questions below using a full sentence.

Key vocabulary

- **shareholders**
- **employees**
- **directors**
- **creditors**
- **company secretary**
- **accountant**
- **auditor**
- **debtors**

When the founders of a new company register the company at Companies House, the company exists as a separate legal entity. This is important as it means that the company is separate from its owners, who are the **shareholders** of the company. Shareholders are also known as the members of the company. The people who work for the company are the **employees**.

The people who have the power to run the company are the **directors**. The company's articles of association give the directors this power. Together, the directors are called the Board of Directors. They make all the decisions about the management of the company.

There is a lot of paperwork in connection with a company. Some of this is financial paperwork, for example dealing with the payroll, which means calculating salaries and wages for the employees. It also involves sending invoices to people who buy goods or services from the company, and paying invoices from suppliers. Companies usually employ an **accountant** to deal with all this financial paperwork. Other paperwork is in connection with the legal administrative duties of a company. This includes the duty to send an annual return each year to Companies House, containing up-to-date information about the company, together with annual financial accounts. It is the duty of the **company secretary** to make sure that these legal requirements are followed. If this person fails to send the correct documents to Companies House at the correct time, then he or she may have to pay a fine.

Each year, a qualified accountant, called an **auditor**, must inspect all the financial records of a company. The auditor has to look at the **creditors** and the **debtors** of a company. Creditors are the people, including banks and other companies, who the company owes money to. Debtors are all the people who owe money to the company. The auditor must be satisfied that the annual financial records are accurate.

Example: Who are the shareholders?

Answer: The shareholders, also known as the members, are the owners of the company.

a Who are the employees?

_____

b What do the directors of a company do?

_____

c What does an accountant do?

_____

d What does a company secretary do?

_____

continued

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e What does an auditor do?

_____

f What are creditors?

_____

g What are debtors?

_____

Exercise 2

Look at the following statements. All of the statements are made by people or organisations that have a connection with a company called Foxtrot Ltd. Complete each statement by using the correct word from the key vocabulary in Exercise 1.

a Kerry Knight
I invested £5000 in Foxtrot Ltd by buying shares in the company. I am a _____ of the company. I am also known as a member of the company.

b The manager of the Royal Chatsworth Bank
Foxtrot Ltd took out a loan from us six months ago. They owe us £4200. We are a _____ of Foxtrot Ltd.

c Harry Orm
I am a _____ of Foxtrot Ltd, together with two others, Mary Parker and Josh Copeland. Mary and I are also shareholders, but Josh does not own any shares in the company. Together we make all the decisions about the company and we are responsible for running the company.

d Mary Parker
I am a director of Foxtrot Ltd and I am also the company _____. This means that in addition to my duties as a director, I have the important task of making sure that I follow all the statutory requirements connected with a company, for example, sending notices of meetings to shareholders and sending documents to Companies House.

e Samuel Dickenson
I am an accountant and I work for a firm called AB Chartry & Co. Most of my clients are medium-size private limited companies. One of my clients is Foxtrot Ltd. I have to check the company's financial accounts and make sure that they are accurate and show the true financial position of the company. I am Foxtrot Ltd's _____.

f Eliza Taylor
I work for Foxtrot Ltd as their _____. I deal with all the financial transactions of the company. For example, I send invoices to people and pay our suppliers. I also deal with the payroll each month to make sure that all of our employees receive their correct monthly salary.

g Ron Baxter
I bought some goods from Foxtrot Ltd three weeks ago. The cost of the goods is £795.20. I have an invoice for these goods, which I must pay next week. I am a _____ of Foxtrot Ltd.

h Jane Wilkinson
I am one of Foxtrot's _____. I work in the sales department. I like working here. I receive a good salary and I also receive a commission on any new sales.

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Help desk

What do these words mean?

suppliers – people or companies that provide goods or services to other people or companies, often on a regular basis.

an invoice – a piece of paper that shows what you are buying and how much you must pay.

AREAS OF COMPANY LAW

Exercise 1

Ellson Garwood law firm want to recruit a lawyer to work in their company and commercial department. They put the following advertisement in a legal magazine. The most important words or phrases are in the key vocabulary. Read the advertisement and put the correct words or phrases from the key vocabulary into each sentence below to complete the definition.

Key vocabulary

- **Restructuring companies**
- **Raising finance**
- **Acquisitions**
- **Joint ventures**
- **Shareholders' agreements**
- **Directors' duties**
- **Incorporating companies**
- **Mergers**
- **Insolvency**
- **Directors' service agreements**

Ellson Garwood LLP

Chatsworth law firm seeks dynamic company lawyer with at least two years' PQE.
You will be advising our corporate clients in the following areas:

- *Company incorporation*
- *Raising finance*
- *Company restructuring*
- *Mergers*
- *Acquisitions*
- *Joint ventures*
- *Shareholders' agreements*
- *Directors' service agreements*
- *Directors' duties*
- *Insolvency*

Apply with C.V. and covering letter to Ms Fiona Bailey, Ellson Garwood LLP, The Parade, Chatsworth, CH1 6FP or email Fiona at f.bailey@ellsongarwood.co.uk

a _____ are contracts of work between a company and a director. They are similar to contracts of employment. The agreement contains all of the details of the director's position, for example his or her remuneration, obligations, any restrictive covenant that applies, and a confidentiality clause.

b _____ is a situation where a company does not have enough money to pay its debts.

c _____ take place when two companies join together to form one company.

d Obtaining money from banks, private individuals, or investment institutions is known more formally as _____.

e _____ occur when one company buys another company. They are also called takeovers.

continued

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f _____ is all of the legal work involved in setting up a new company.

g _____ is changing the existing structure of companies with the aim of improving their performance.

h Situations where two or more companies work together on a particular project for a limited period of time are called _____. Each company remains independent from each other.

i Agreements between the members of a company are called _____. They are important as they contain the members' obligations to the company and to each other. For example, they state what happens when a shareholder wants to sell his or her shares.

j All of the obligations and requirements of a director are called _____.

Exercise 2

Peter Hapworth saw the advertisement and wrote a letter to Fiona Bailey. Peter's letter is mixed up. Put the parts of the letter in the correct order by writing your answers in the boxes numbered 2–9 below. There is an example at the beginning, which is the start of the letter.

14 Gilbert Street
Chatsworth
CH7 5KL

Ms Fiona Bailey
Ellson Garwood LLP
The Parade
Chatsworth
CH1 6FP

24 July 20XX

(**a**) Upon qualification, Hedgsons offered me a position in the company law department. I now have eighteen months' PQE, specialising in this area. I have an excellent working relationship both with clients and other members of the company department team.

(**b**) **Position of Company Lawyer**

(**c**) I look forward to hearing from you.

(**d**) Following successful completion of the Legal Practice Course at Oxton, I undertook my training contract with Hedgsons LLP. I gained experience in civil litigation, banking, property, and company law.

(**e**) Dear Ms Bailey

(**f**) Peter Hapworth

(**g**) I read your advertisement for a company lawyer in the Legal Gazette (20 July 200X) with interest. I would like to apply for this position.

(**h**) Yours sincerely

(**i**) Whilst I enjoy my current position, I believe that Ellson Garwood would offer a wider client base and that I could acquire further skills and experience. I enclose my C.V. for your information and would welcome the opportunity to meet you. I am able to attend an interview next month.

(1) e	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

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Help desk

What do these words mean?

PQE – an abbreviation for post qualification experience. That means how many years a lawyer has worked following the date of his or her qualification as a lawyer. PQE is used frequently in job advertisements for lawyers.

undertook – in this context, it means 'did'.

to acquire further skills – to get more practice in doing something so that you become better at doing that thing.

client base – the number and type of people and companies that a law firm provides a service to.

DIRECTORS

Exercise 1

David Merriman is talking about his job as a director of a company. The most important words are highlighted in the text. Read what David says and then complete the sentences on the next page by matching the first half of each sentence with the correct ending.

'My name is David Merriman. I'm one of the directors of Halloway & Riggs Ltd. Our company produces mobility equipment for people who cannot walk properly. Halloway & Riggs Ltd has a board of five directors. Four of us are **executive directors**. That means that we are the people who make all of the day-to-day decisions about running the company. We also have one **non-executive director**, called Jack Drury. As a non-executive director, he is not involved in the daily running of the company, but he gives us advice on new designs for our equipment.

When the shareholders of Halloway & Riggs Ltd **appointed** me as a director of the company six years ago, the rules about the duties of directors were not really very clear. There wasn't a statute dealing with the duties of directors. The law came from the common law. The main duties of a director were the duty to act with care and skill, and the **fiduciary duty** of good faith. Because a director knows so much about a company, the shareholders must trust the director always to act in the best interests of the company. For example, we, as directors, aren't allowed to make a secret profit by using our knowledge of the company for our own benefit.

However, since the Companies Act 2006 came into force, the law about the duties of directors is a little clearer. The Act includes some provisions about directors. It talks about executive directors and non-executive directors, which I mentioned earlier. It also talks about **shadow directors**. Basically, a shadow director is a person who is not officially a director of the company, because the shareholders did not appoint him or her as a director, but this person gives instructions to the other directors. Executive directors, non-executive directors and shadow directors all have the same duties and responsibilities to the company. Directors have a duty to avoid a **conflict of interest**. In other words, we're not allowed to be in a position where our personal interest may tempt us to do something that would not be in the best interests of the company. If a director has a personal interest that may conflict with the interests of the company, then the director must tell the other directors about it. In other words the director must **disclose** that interest so that everyone knows about it.

I hope to remain in my position of director of Halloway & Riggs Ltd for many years. My service agreement with the company expires in two years, but I hope that the shareholders will reappoint me. I can remember only one occasion, which was three years ago, when the directors and shareholders were so dissatisfied with the performance of one of the directors, that the shareholders had to **remove** that director. That means they dismissed him. I would be devastated if that happened to me. I'm very proud of the company and its products and I firmly believe that this company has a great future. I will do my very best to ensure that I **exercise** my powers as a director to the best of my ability.'

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a	Executive directors...	... a situation in which you are in a position of trust for more than one person and if you take a particular action, this will give good results to one person while at the same time giving bad results to the other person. (1)
b	Non-executive directors...	... advise the company about particular matters, but they do not take part in the daily decision-making. (2)
c	Appointed means...	... use that power. (3)
d	A fiduciary duty is...	... elected or chosen for a particular position. (4)
e	A shadow director is...	... dismiss that person from his or her position as a director. (5)
f	A conflict of interest is...	... run the company and make all the decisions about the company. (6)
g	To disclose information means to...	... give that information to someone or tell someone about it. (7)
h	To remove a director means to...	... a duty to act in the best interests of someone because that person trusts you. (8)
i	To exercise a power means to...	... someone who, even though he or she has no official position of authority, gives instructions to the official directors. (9)

Exercise 2

Read what David Merriman says again and decide if the following statements are true or false.

a	David Merriman is a member of the board of directors of Halloway & Riggs Ltd.	**True**	**False**
b	Jack Drury is a member of the board of directors of Halloway & Riggs Ltd.	**True**	**False**
c	David Merriman has been a director of Halloway & Riggs Ltd for six years.	**True**	**False**
d	The directors are allowed to make a profit from their position but they must not tell anyone about it.	**True**	**False**
e	David Merriman wants to retire in two years.	**True**	**False**
f	Three years ago, the shareholders removed David Merriman from his position as a director.	**True**	**False**

Help desk

What do these words mean?

mobility equipment – this is equipment which helps people to move. For example, wheelchairs, crutches and walking sticks.

good faith – honesty and sincerity, loyalty.

the best of my ability – to do something to the best of your ability, is to do it as well as you possibly can.

devastated – extremely upset.

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COMPANY MEETINGS

Exercise 1

Christine Martin works at the Chatsworth Business Advice Bureau. This is an office that gives advice and information to people who want to start a new business. Christine is writing an information sheet about company meetings. The most important words or phrases are in the key vocabulary below. Read the first page of the information sheet and answer the questions that follow using a full sentence.

Key vocabulary

- **company meetings**
- **board meetings**
- **minutes**
- **annual general meeting**
- **chairperson**
- **convene**
- **extraordinary general meeting**
- **quorum**
- **adjourn**
- **proxy**
- **show of hands**
- **poll**

Chatsworth Business Advice Bureau

Company meetings

If you want to set up a private limited company or a public limited company you need to know about **company meetings**. There are **board meetings** and company meetings. Board meetings are meetings of the directors of the company. Company meetings are meetings of the shareholders of the company.

The company must hold regular meetings. The directors make all the decisions about the company so they need to meet often. You need to keep a written record of each meeting. The written record of each meeting is called the **minutes** of the meeting. The person who controls a meeting is called the **chairperson**.

The shareholders meet at the company's **annual general meeting**. This meeting takes place once each year. It is usually called the AGM. If it is necessary for the shareholders to meet again, the company will **convene** an **extraordinary general meeting**, which is called an EGM. To convene a meeting simply means to call a meeting. In other words, the company sends a notice to all the shareholders telling them when and where the meeting will take place.

There must be a **quorum** at a meeting. A quorum is the minimum number of people who have to be at the meeting in order to make an official decision. Each company decides how many people will constitute the quorum. If the quorum is not present, then the meeting cannot continue. You will have to stop the meeting and arrange a new date for it. In other words, you must **adjourn** the meeting, which means to postpone it.

If a shareholder cannot go to the meeting, maybe because he or she is on holiday, he or she can ask someone else to go the meeting and vote for him or her. That person is called the shareholder's **proxy**.

People vote at a company meeting either by raising their hands, or by making their vote on paper. The first method of voting is more formally called a **show of hands** and the second method of voting is called a **poll**.

page 1

a Who attends board meetings?

Answer: _____

b Who attends company meetings?

Answer: _____

continued

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c What are the minutes of a meeting?

Answer: _____

d What does the chairperson do at a meeting?

Answer: _____

e How often does an annual general meeting take place?

Answer: _____

f What does the abbreviation EGM mean?

Answer: _____

g There must be a minimum number of people attending a meeting before that meeting can continue. What is this minimum number of people called?

Answer: _____

h What are the two methods of voting at a company meeting?

Answer: _____

Exercise 2

Use the correct words or phrases from the key vocabulary in Exercise 1 to complete the following sentences.

a We need at least five people to attend the meeting before we can make any decisions. There are only four people here, so we do not have a _____ present.

b If you want to read what happened at a meeting, you should look at the _____ of the meeting.

c The company's _____ takes place in March of every year.

d Meetings of the shareholders are generally known as _____.

e I'm afraid there is not a quorum at this meeting. We will _____ the meeting now and hold it again next week.

f The AGM of Great Finance plc will take place next month. One of the shareholders, Daphne Mercier, will be in France when the meeting takes place. Daphne asked her friend, Teresa, to be her _____ and vote on her behalf at the meeting.

g One method of voting that is very often used at company meetings is where each shareholder raises his or her hand, in other words, voting by a _____.

h Granger Ltd held its AGM last month. Now it is necessary to hold another meeting. This time it will be an _____.

i The directors hold regular _____ at which they discuss the position of the company and make decisions about the company.

j There are a number of matters that we must discuss. We need to _____ a company meeting as soon as possible.

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k All the shareholders voted by completing the voting form. This written vote is called a _____.

l Two of the shareholders became very angry during the meeting and started to shout at each other. The _____ had to ask them to be quiet.

Exercise 3

Here is the second page of the information sheet about company meetings. The most important words or phrases are in the key vocabulary below. Read the information sheet and decide if the statements on the next page are true or false.

Key vocabulary

- **resolutions**
- **motion**
- **pass**
- **carry**
- **unanimously**
- **special resolutions**
- **written resolutions**
- **notice**
- **ordinary resolutions**

Chatsworth Business Advice Bureau

Company meetings

Both the directors and the shareholders make their decisions at meetings. These decisions are called **resolutions**. If someone has a proposal that they want to discuss at a meeting, this proposal is called a **motion** or a proposed resolution. The shareholders discuss each motion and then vote to decide whether or not to accept that proposal. When the shareholders accept or agree to a motion, we say that the shareholders '**pass** a resolution' or '**carry** a resolution'. This is another way of saying to approve of, or agree to, the decision.

There must be enough people voting in favour of a resolution in order to formally accept it. If everyone agrees to the motion, then the resolution is passed **unanimously**. Unanimously means that everyone who is present at the meeting is in complete agreement. However, you do not need everyone to agree. It depends on what you are voting about. Some motions need a simple majority of over 50% of people who are voting to agree in order to pass them. These decisions are called **ordinary resolutions**. Other motions need a majority of 75% of people who are voting to agree in order to pass them. These decisions are called **special resolutions**.

You do not always have to convene a meeting in order to pass a resolution. Shareholders can make lots of decisions by using **written resolutions**, especially if the company is a private limited company. This saves the time and cost of holding formal meetings.

There are a lot of rules about holding company meetings. Some of these rules are statutory, which means the Companies Act 2006 requires companies to have these rules. In addition to these statutory rules, each individual company imposes its own rules. The rules of each individual company are in that company's articles of association. For example, if you are a director, you cannot just announce that you will hold a company meeting today! The company has to send a formal **notice** of the meeting to the shareholders. That means you have to officially announce to the shareholders that a company meeting will take place. You also have to make sure you give the shareholders the correct number of days' notice. You must study a company's articles of association very carefully to make sure that you follow all these rules.

Our advice is to ask a solicitor to explain your company's articles of association to you so that you fully understand all of the procedures concerning meetings.

page 2

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a	A proposed resolution is called a motion.	**True**	**False**
b	In order to pass a resolution, all the shareholders must always agree unanimously.	**True**	**False**
c	Ordinary resolutions need at least 51% of people voting in favour of them.	**True**	**False**
d	Shareholders can *only* pass resolutions at a formal meeting.	**True**	**False**
e	All of the rules about company meetings are in the Companies Act 2006.	**True**	**False**

Exercise 4

Rewrite each of the sentences below, using the correct word or phrase from the key vocabulary in Exercise 3 to replace the underlined word or words.

Example: The shareholders passed a decision to issue 100 new shares.

The shareholders passed a resolution to issue 100 new shares.

a We will now discuss the following proposed resolution, proposed by Jane Edwards.

We will now discuss the following _____, proposed by Jane Edwards.

b The shareholders accepted a resolution to change the name of the company.

The shareholders _____ a resolution to change the name of the company.

c This resolution is a decision which requires over 50% of the votes to be in favour of it in order for it to succeed.

This resolution is an _____.

d The company sent a formal announcement to all of its shareholders informing them that the company is convening an EGM, which will take place on 12 June.

The company sent a _____ to all of its shareholders informing them that the company is convening an EGM, which will take place on 12 June.

e This resolution is a decision which requires at least 75% of the votes to be in favour of it in order for it to succeed.

This resolution is a _____.

f The shareholders passed the resolution with complete agreement.

The shareholders passed the resolution _____.

g For most matters, the shareholders of Restart Ltd do not need to meet, as they are happy to use decisions in writing.

For most matters, the shareholders of Restart Ltd do not need to meet, as they are happy to use _____.

Help desk

What do these words mean?

a voting form – a paper that sets out the possible choices. You decide which of these choices you want, then write a cross (X) next to your choice.

to raise your hand – to put one of your hands high into the air above your head.

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COMPANY FINANCE – A CASE STUDY

Exercise 1

Look at this case study of a private limited company. Some of the words are highlighted. Without using a dictionary try to decide whether the highlighted words are verbs or nouns.

Farmfoods Ltd is a private limited company which supplies animal food to farms for sheep, cows and other animals. The company traded successfully for the past four years. The company's most valuable **asset** is its factory where the company manufactures the animal food. The directors decided to expand the business. Farmfoods Ltd needed to **borrow** a lot of money to **finance** this expansion. The directors applied for a large **loan** from the Royal Chatsworth Bank. The bank considered the application and agreed to **lend** the company the money. However, the bank wanted a **guarantee** from Farmfoods Ltd that the company would **repay** the loan. The bank demanded a fixed **charge** over Farmfood Ltd's assets. The directors agreed to **grant** a **mortgage** to the bank over Farmfoods Ltd's factory. The bank now has **security** over the factory. If Farmfoods Ltd **defaults** on the loan repayments, the bank can take the factory from Farmfoods Ltd.

Verb	Noun

Exercise 2

Here are the highlighted words again. Fill each gap in the following sentences with the correct word from the blue box below to complete the definitions that follow.

asset	**loan**	**repay**	**mortgage**
borrow	**lend**	**charge**	**security**
finance	**guarantee**	**grant**	**defaults**

a To _____ money means to take money from someone else for an agreed period of time and then pay it back.

b To _____ money means to give money to someone else for an agreed period of time. That person must then give the money back to you.

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c A _____ is a sum of money that you borrow from another person. You must pay back that money, usually with interest.

d To _____ money is to pay back the money that you borrowed from someone.

e An _____ is something that you own which has a value. It can have a very low value, for example a CD, or a very high value, for example a house.

f To _____ a project means to obtain money in order to be able to pay for that project.

g A _____ is a promise to do something.

h _____ is a guarantee that you will pay back to someone the money that you owe to them. It is often 'fixed' to a particular asset, which means that if you don't pay back the money, that person will take the asset that you used to guarantee payment.

i A _____ is one example of security. It is a legal document which gives a house or a building as security for a loan. If the owner of the house does not pay the loan back, then the person who lent the money can take the house and sell it in order to get his or her money back.

j If someone _____ on payment it means that he or she fails to make that payment.

k A _____ is a type of security. A fixed charge is attached to a particular asset and gives the chargeholder the right to take that asset if the borrower does not pay the money that it owes. An example of a fixed charge is a mortgage. There are other types of charge, which are less important than fixed charges.

l To_____ a mortgage over your property is to use that property as security for a loan.

Exercise 3

Look at the second part of the case study. Decide in each case which is the correct proposition from the two possibilities.

Unfortunately, Farmfoods Ltd experienced a very bad year (*) **of/in** trading last year. (**a**) **Until/After** a period of terrible weather which ruined the crops, Farmfoods Ltd had to increase its prices (**b**) **with/by** 15% and its customers found other more competitive suppliers. The company's plans (**c**) **for/to** expansion did not receive approval (**d**) **from/to** the planning authorities. The company cannot pay the instalments (**e**) **for/on** the loan from the Royal Chatsworth Bank and last month the bank demanded full repayment (**f**) **of/to** the loan. Farmfoods Ltd is insolvent. The company is unable to pay its debts.

Example (*) of

Answers

a _____ **b** _____ **c** _____ **d** _____ **e** _____ **f** _____

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Exercise 4

The directors of Farmfoods Ltd are looking at the list of its creditors. Creditors are either ***secured*** *creditors or* ***unsecured*** *creditors. Secured creditors have some sort of security or guarantee of repayment, while unsecured creditors have no guarantee of payment. Read the information about Farmfoods Ltd's creditors and decide if each creditor is a secured creditor or an unsecured creditor.*

a Print It Ltd. This is a company that supplies printing services to Farmfoods Ltd. Farmfoods Ltd did not give any guarantee for payment of any amount.

Answer: _____

b Chatsworth Royal Bank. The bank has a mortgage over Farmfoods Ltd's factory to guarantee repayment of this loan.

Answer: _____

c HGFT Bank. Farmfoods Ltd also took out a loan from this bank. HGFT Bank holds a charge over some of Farmfoods Ltd's assets.

Answer: _____

d Spin Electric plc. This company provides Farmfoods Ltd with electricity. Farmfoods Ltd has not paid any of its electricity bills for five months. Farmfoods Ltd did not give any guarantee for payment of any amount.

Answer: _____

e Grotell & Co. This is a partnership that supplies packaging to Farmfoods Ltd. There are two invoices from Grotell & Co that are waiting to be paid. There is no guarantee for payment of any amount.

Answer: _____

CLOSING A COMPANY

Exercise 1

Sam Clark is a law student at the University of Chatsworth. He must write a short summary about closing a company. Here is Sam's summary. The most important words or phrases are in the key vocabulary below. Read the information and answer the questions that follow using a full sentence.

Key vocabulary

- **strike off**
- **dissolved**
- **liquidate**
- **solvent**
- **wind up**
- **liquidator**
- **members' voluntary liquidation**
- **insolvency practitioner**
- **realise**
- **insolvent**

Closing a company

Because a company is a legal entity, the directors cannot simply stop business and close the company. There are rules in connection with closing a company. The directors must follow the correct procedures, which vary depending on the reason why the company is closing. There are a number of reasons why a company closes:

- The company is no longer trading. The Registrar of Companies House has the power to remove, or '**strike off**', a company from the central register of companies if the Registrar believes that the company is not carrying on business. This will happen if, for example,

continued

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the company does not submit any annual accounts or annual returns to Companies House and fails to reply to any letters from Companies House. When the Registrar strikes off a company, that company no longer exists. We say that the company is **dissolved**.

- The shareholders wish to close the company. Maybe, for example, the company was a family business and the family no longer wishes to carry on that business. Or maybe the shareholders set up the company for a particular project, which is now finished. In these situations, the shareholders must **liquidate** the company. To liquidate a company means to formally close the company. If the directors believe that the company is **solvent**, in other words the company has enough money to pay all its debts, the shareholders can follow a process called a **members' voluntary liquidation**. The liquidation starts when the shareholders pass a resolution to **wind up** the company voluntarily. To wind up a company means the same as to liquidate or to close a company.

  A person is then appointed to liquidate the company. He or she is called the **liquidator** of the company. This person is a qualified **insolvency practitioner**, which means that he or she has the necessary qualifications to deal with closing companies. The job of the liquidator is to wind up the company. The liquidator must **realise** the assets of the company. This means that he or she must sell all the assets of the company. The liquidator then has to give the money from the sale of the assets to the creditors of the company. If any money remains, the liquidator distributes it among the shareholders of the company. At the end of this process, the Registrar dissolves the company.

- The company has no money. The other reason for closing a company is because it does not have enough money to pay its debts. In other words the company is **insolvent**. Again, there are many rules to follow if a company is insolvent. However, it is important to remember that not all insolvent companies must close.

a What does to strike off a company mean?

Answer: _____

b What does to liquidate a company mean?

Answer: _____

c What adjective describes a company which is able to pay all of its debts?

Answer: _____

d Which phrasal verb has the same meaning as to liquidate?

Answer: _____

e Who has the task of winding up a company?

Answer: _____

f What does to realise assets mean?

Answer: _____

g What is an insolvent company?

Answer: _____

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Exercise 2

Use the correct words or phrases from the key vocabulary in Exercise 1 to complete the following sentences.

a If you want to be an _____ you must have special qualifications which allow you to deal with the process of closing companies.

b I am pleased to report that after a very difficult year of trading, this company is now _____ and we are in a position where we are able to pay all of our debts.

c A _____ is a procedure where the shareholders of a solvent company decide to close the company.

d When lawyers talk about closing a company they either use the verb 'to _____' a company or the phrasal verb 'to _____' a company. These verbs have the same meaning.

e As Hawksend Ltd failed to respond to any letters or demands from Companies House, the Registrar is going to _____ Hawksend Ltd from the register of companies.

f Following a terrible year of trading during which Klarx Ltd made massive losses, Klarx Ltd announced that the company is _____ and does not have the money to pay all of its creditors.

g When a company is in liquidation, the _____ is the person who has to wind up the company.

h To _____ an asset means to sell that asset in order to raise some money.

i At the end of the process of liquidating a company, the company is _____ and does not exist any more.

Help desk

What do these words mean?

to vary – to change, to alter.

to carry on business – to trade.

massive – extremely big.

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INSOLVENT COMPANIES

Read this information about what happens to a company when it is insolvent and then do the exercises that follow.

Introduction

If a company cannot pay its debts when they are due, the company is insolvent. Directors have a duty not to allow a company to continue to trade when they know that the company is insolvent. The directors must decide what to do. They must consider which of the available insolvency proceedings will benefit the company. Insolvency proceedings are formal ways of dealing with the debts of the company. There are different types of company insolvency proceedings. The most common insolvency proceedings are:

Administration

A company is in administration when either the directors, a secured creditor, or a court appoints an insolvency practitioner to be the administrator of the company. The administrator takes control of the company and has to manage the company for the benefit of the creditors of the company. The aim of administration is to try to 'rescue' the company so that it can continue to trade as a going concern, or if that is not possible, to sell the company's assets for the best possible price.

Receivership

A company is in receivership when a creditor, whose debt is secured by a charge over the company's assets, appoints a receiver. The receiver can sell the assets subject to the charge and use the money he or she receives to repay the creditor.

Creditors' voluntary liquidation

This can take place when the company cannot pay its debts. The company has to pass a resolution stating that the company cannot continue in business due to its debts. A liquidator is appointed to wind up the company. The liquidator has to realise the assets of the company and give the proceeds to the creditors. The proceeds is the money that you receive from selling something. If any money is left after payment of the creditors, the liquidator will give that money to the shareholders. At the end of the liquidation process, the Registrar at Companies House dissolves the company.

Compulsory liquidation

This takes place when a creditor presents a winding-up petition to the court, on the grounds that the company cannot pay its debts, and the court makes an order for the company to be wound up. Following the order, the Official Receiver becomes the liquidator of the company. At the end of the liquidation, the company is dissolved.

Exercise 1

Choose the correct word from the ***introduction*** *section above to complete the following sentences.*

a If a debt is _____, it means that it is time for you to pay that debt now.

b If a company is unable to pay its debts, in the UK we say the company is _____. In the USA they say that the company is bankrupt.

c _____ is the state of not being able to pay your debts.

d A lawyer who specialises in insolvency can advise which of the available insolvency _____ would be the best to use in a particular situation.

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Exercise 2

*Choose a word or phrase from the **administration** section on the previous page to complete the following sentences.*

a The person who has the power to run a company which is in administration is called the _____. This person must be a qualified insolvency practitioner.

b To _____ a company means to run a company.

c If you do something for the _____ of someone, this means that you act in that person's best interests to get the best result for him or her.

d A _____ is a business that is actively trading.

Exercise 3

*Choose a word or phrase from the **receivership** section on the previous page to complete the following sentences.*

a A _____ is an amount of money that you owe to someone.

b A _____ is a form of security to ensure that a company or person repays money which it owes to someone.

c A _____ is the person who must take control of a company's assets and try to recover enough money to pay back a particular secured creditor.

d In this context, the expression '_____' means 'covered by'.

Exercise 4

*Choose a word or phrase from the **creditors' voluntary liquidation** section on the previous page to complete the following sentences.*

a If a company makes a formal decision at a company meeting, it passes a _____.

b The phrasal verb '_____' a company means to formally close the company.

c To _____ assets means to sell assets in order to obtain money.

d A formal way of referring to the money that you get from selling something is to say the '_____ of sale'.

Exercise 5

*Choose a word or phrase from the **compulsory liquidation** section on the previous page to complete the following sentences.*

a When a person _____ a document he or she officially gives that document to someone or files the document in a particular place.

b A _____ is a document that starts the process of liquidation. It is a request made to the court to liquidate a company.

c A formal way of saying 'for the reason that' is to say 'on the _____ that'.

d If a company is in compulsory liquidation, the _____ becomes the liquidator of the company.

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UNIT 9A VOCABULARY CHECK

These are the important words that you have studied in Unit 9A. You should make sure that you know these words before you go on to Unit 9B.

accountant
acquisition
adjourn
administration
administrator
annual general meeting
appoint
auditor

bankrupt
board

call
carry
chairperson
charge
client base
company secretary
compulsory liquidation
conflict
convene
creditor

debtor
declare
director
dissolve

elect
employee
executive director
exercise
extraordinary general meeting

fiduciary duty
finance
fixed charge

good faith
grant

insolvency
insolvency practitioner
insolvency proceedings
insolvent

joint venture

liquidation
liquidator

majority
manage
material
meeting
members' voluntary liquidation
merger
minutes
mortgage
motion

non-executive director
notice

***o**fficial receiver*
ordinary resolution

pass
petition
poll
present
proceeds
propose
proxy

quorum

raise
realise
receiver
receivership
remove
resolution
restructure

secured creditor
serve
service agreement
shadow director
shareholders
shareholders' agreements
show of hands
solvent
special resolution
strike off
suppliers

takeover

unanimously
undertake
unsecured creditor

wind up
written resolution

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TOLES FOUNDATION EXAM PRACTICE

Exercise 1

Look at the groups of words below. In each group, three of the words belong to the same subject area, but there is one word that does not belong. Put a circle around the word that is the odd one out. Do not circle more than one answer for each sentence. There is an example at the beginning (*).

(*)	**A** wind up	**B** liquidate	**C** quorum	**D** strike off
(1)	**A** convene	**B** hold	**C** call	**D** debt
(2)	**A** shadow	**B** executive	**C** creditor	**D** non-executive
(3)	**A** liquidation	**B** profit	**C** administration	**D** receivership
(4)	**A** director	**B** mortgage	**C** security	**D** charge
(5)	**A** vote	**B** merger	**C** poll	**D** show of hands

Exercise 2

Here is a conversation between two lawyers. The conversation is mixed up. Put the conversation in the correct order. Write your answers in the boxes numbered 2 – 9 below. There is an example at the beginning (*), which is the start of the conversation.

(*) Good morning Sarah. How are you?

a Another one? There seem to be so many businesses in financial trouble at the moment. Is this one a large company?

b I'm OK thanks. How's life in the insolvency department? Are you busy?

c A familiar story, I'm afraid. The company did really well at first and made a profit. Then the directors made some decisions about expanding the company, which didn't produce the results they wanted. They borrowed a lot of money from the bank and now they can't make the loan repayments.

d No. Last week, the bank demanded full payment of the loan, which the company can't pay. There are a lot of other creditors, too. But after the bank gets its money back, I don't think there will be any money left for them. And certainly none for the shareholders. The company will be wound up.

e No, it's small. 15 employees I think.

f So what will happen? Isn't there any chance of saving the company?

g Very busy. I'm just going to start work on a new matter. Another liquidation.

h 15 more people out of a job, then. What happened?

(1) (*)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

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Exercise 3

Look at the sentences below. Each sentence contains a mistake. The mistake is either an incorrect word or a word that should not be there. Put a circle around the word. Do not circle more than one answer for each sentence. There is an example at the beginning (*).

Example

(*) We need to borrow some money (to) the bank.

1 As a director I must to exercise the duty of care and skill.

2 In my opinion, this motion is not for the best interests of the company.

3 At the meeting the shareholders passed the resolution unanimous.

4 The bank will lend us the money but it wants security of the loan.

5 Our non-executive director knows about this and she will give us an advice.

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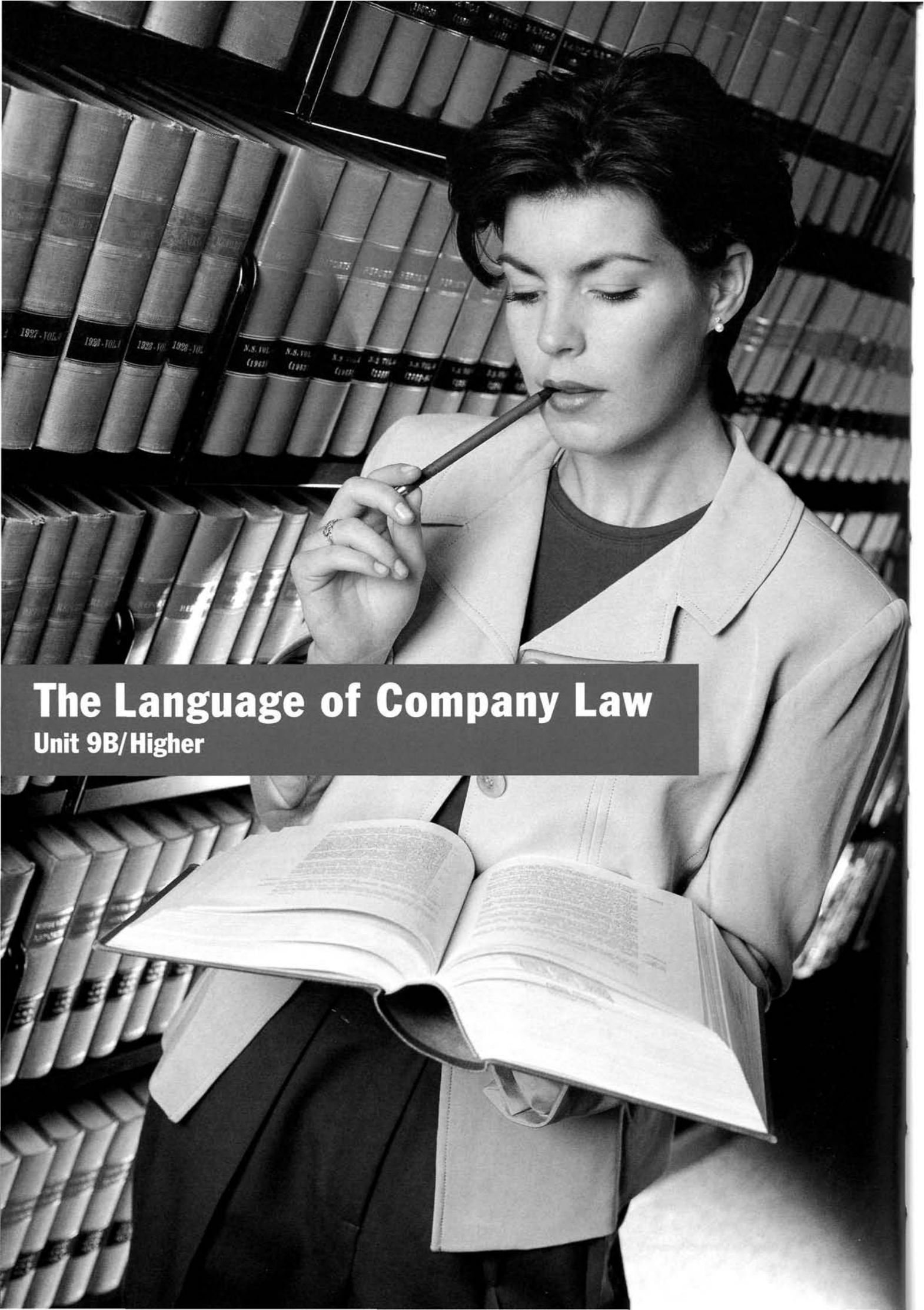

The Language of Company Law

Unit 9B/Higher

THE LANGUAGE OF COMPANY LAW

PEOPLE CONNECTED WITH A COMPANY

Exercise 1

Look at this list of people. They are all connected with a company. Match each person in the list with the correct description below.

directors (1)

shareholders (2)

company secretary (3)

auditor (4)

accountant (5)

employees (6)

creditors (7)

debtors (8)

a All of the people who are employed by a company.

b The people or companies that a company owes money to.

c The owners of a company. They are also called the members of a company.

d A person who checks the financial records of a company to verify that the accounts are a true reflection of the company's financial position.

e The people who run and manage a company.

f A person who deals with a company's finances. This person usually has professional qualifications in accountancy.

g The people or companies who owe a company some money.

h The person who is responsible for making sure that a company's statutory obligations are complied with.

Exercise 2

Use the correct words from Exercise 1 to fill the gaps in the following text.

'My name is Louise Nichols. I own 40% of the issued shares in Sanders & Nichols Ltd. The other (**a**) _____ are Dennis Sanders and Kit Neilson. As well as being members of the company, we are responsible for running the company, as we are the (**b**) _____ of the company. Kit Neilson has an additional responsibility as he is the (**c**) _____. He has to make sure that all the legal requirements in connection with filing documents at Companies House are complied with.

We have three (**d**) _____ who work in our shop in Chatsworth. We use the services of an (**e**) _____ to keep our financial records up-to-date. We have regular meetings with her and each month we look at the list of people who haven't paid our invoices. Of these (**f**) _____, we look to see if there is a good reason why they haven't paid us. If there is no reason, we contact them to ask them to pay us immediately. In the same way, we look at the people that we owe money to. These are our (**g**) _____. We pay most of these, but if we have a query we will raise that with them. Once a year it is necessary for an (**h**) _____ to check the financial records and accounts of our company. This is an independent check, to make sure that our annual accounts show the true financial position of Sanders & Nichols Ltd.'

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WORKING IN COMPANY LAW

Exercise 1

Greg Harrison is a partner in the law firm Taylor Wallis. He works in the company and commercial department. Today Greg Harrison is speaking to a group of trainee lawyers and giving them his opinion about working as a solicitor in company law. Fill the gaps in the text with the words from the blue box below.

• **statutory**	• **raising**	• **formations**
• **incorporating**	• **resolutions**	• **insolvency**
• **employment**	• **dispute**	• **acquisitions**

'I have always wanted to work in the area of company law because it is so interesting and there is so much variety. You have to deal with non-contentious work, such as (**a**) _____ a new company, and contentious work, such as acting for a company which is in (**b**) _____ with its suppliers. We work closely with the other departments within the law firm. For example, if a company needs a service agreement for a new director, we will ask the (**c**) _____ department for assistance. If the matter involves a company which is experiencing financial difficulties, we will ask for advice from one of our lawyers in the banking and (**d**) _____ department. If we are dealing with a situation where one company is taking over another company, then we will involve a tax lawyer.

I have been with this firm for 14 years and in that time I have dealt many aspects of company law. These include:

- Dealing with company (**e**) _____ and restructuring a company
- Drawing up and advising on shareholders' agreements
- Drafting directors' service agreements
- Advising on methods of (**f**) _____ finance
- Giving advice on complying with new legislation
- Dealing with mergers and (**g**) _____
- Giving advice on voting procedures at meetings and drafting (**h**) _____
- Advising on company insolvency procedures
- Dealing with joint ventures.

So as you see, company law is a huge area of law, with many varied aspects. Some of the law regulating companies is (**i**) _____ and some comes from the common law. In 2006 a new Act of Parliament was passed, called the Companies Act 2006. This new legislation affects existing and new companies and all company lawyers have a lot of work to do in becoming familiar with the legislation and advising their corporate clients on complying with it.'

Exercise 2

In Exercise 1, Greg Harrison gave a list of different aspects of company law that he has dealt with during his 14 years at his law firm. Look at the following statements and match each statement with the correct aspect of company law mentioned by Greg.

Example statement: 'A new statute has been passed which will fully come into force in 2008. This will have a huge effect on company law and we must make sure that our clients are aware of the changes in the law and how it affects their company.'

Aspect of law: Giving advice on complying with new legislation.

a 'If a company needs money, there are a number of ways the company can obtain it. However, it is important to consider both the short-term and long-term effects of each option and choose the one that best suits the purpose and needs of the company.'

Aspect of law: _____

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b 'You have instructed me in connection with the sale of your shares in Happy Times Ltd children's nursery. I need to see a copy of the contract that you signed, which deals with the arrangements between all the members of Happy Times Ltd.'

Aspect of law: _____

c 'During the lifetime of a company, many decisions will be made and lots of formalities must be followed when taking those decisions.'

Aspect of law: _____

d 'You would like to appoint Janice Longman as your new Financial Director and you have instructed me to draw up a document clearly setting out the terms and conditions of this appointment.'

Aspect of law: _____

e 'Sadly, many companies do not succeed in trading profitably and they make substantial losses. Some of these companies have to close down, others may benefit from an experienced person taking control of the company. There are a number of ways to help a company which is in financial difficulties.'

Aspect of law: _____

f 'I am often involved in situations where two companies are joining together or where one company wants to gain control of another company.'

Aspect of law: _____

g 'At the moment I am working on a project which involves two independent companies working closely together on a particular project for a specified period of time.'

Aspect of law: _____

h 'It is very important, when setting up a new company or changing the structure of an existing company, to think about the consequences, both in terms of finance and the balance of power between the shareholders.'

Aspect of law: _____

m

Collocation bank

- to work **closely**
- to **raise** finance
- to **make** a decision
- to **experience** difficulties
- a **long-term** effect
- to **take** a decision

m

Preposition bank

- to be **in** dispute with someone
  'Our clients have been **in** dispute for a long time.'
- to advise **on** something
  'I am currently advising **on** the sale of a pub in Manchester.'
- **in** connection **with** something
  'Please call me **in** connection **with** the proposed transaction.'
- to succeed **in** doing something
  'Good news. We have succeeded **in** raising £500,000 for the project.'
- to work **on** a project
  'Sally and Jacob are going to work **on** the NewStar project tomorrow.'
- to think **about** something
  'I'll think **about** that and give you an answer on Tuesday.'
- to be familiar **with** something
  'I started work here two weeks ago and I'm just beginning to be familiar **with** the company's computer system.'

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DIRECTORS

Exercise 1

Greg Harrison, one of the partners of Taylor Wallis, is preparing a seminar on the role and duties of directors. Greg has written the following notes, which will be given to all clients who attend the seminar. Find the words in the notes that match each of the meanings given below.

Taylor Wallis

The role and duties of directors

Greg Harrison, Company and Commercial department

The owners of a limited company are the shareholders. However, the shareholders do not run the company. The directors do this. All private limited companies must have at least one director. A public limited company must have at least two directors.

Shareholders can choose who they want to appoint as a director. You will find the rules concerning directors in the company's articles of association. The articles may say how many directors there should be, how long they can serve as a director and what happens at the end of their term. In many companies directors are required to retire after a specific period of time, for example, three years, although the directors can be reappointed. If the company is dissatisfied with the performance of a director, it can remove a director before the period of his or her office has expired. However, the company may still be liable to pay the removed director compensation or damages in respect of the termination of the appointment as director.

In the Companies Act a director is defined as including 'any person occupying the position of director, by whatever name called.' If you have been appointed as a director and you are involved in the day-to-day decision making, you are called an executive director. If you have been appointed as a director, but you do not have any involvement in the day-to-day running of the company, you are called a non-executive director. As a non-executive director, you will have the same legal responsibilities as other directors. If you have never been appointed as a director, you may still be classed as a shadow director. A shadow director is defined in the Companies Act as a 'person in accordance with whose directions or instructions the directors of the company are accustomed to act'. As a shadow director you will have the same legal responsibilities as other directors.

As a director, you have many business responsibilities for ensuring the success of your company, in areas such as health and safety, employment law and tax. In all your actions you are expected to exercise a degree of skill and care. The term 'fiduciary duty' is used a lot when talking about directors. This means that you, as a director, are in a position of trust and you must act in good faith and in the interests of the company as a whole.

If a director acts improperly, this may lead to a fine, disqualification from being a director, personal liability for the company's debts, or a criminal conviction.

a To formally choose someone for a particular job or position.

The word is _____

b To be in the position of a director and to perform the duties required by that position.

The word is _____

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c To dismiss a director from his or her job or position.

The word is _____

d Regarded as belonging to a particular group.

The word is _____

e To have become used to something.

The word is _____

f To use, to put something into effect.

The word is _____

g Dishonestly or illegally.

The word is _____

h The state of being stopped from being in a particular job, or from taking part in a particular activity.

The word is _____

Exercise 2

Greg has invited the participants at the seminar to ask any questions that they have. Read the notes in Exercise 1 again and answer the participants' questions below using a full sentence.

a 'We're thinking about setting up a private limited company. How many directors must we have?'

Answer: _____

b 'Our company is unhappy with one of our directors and we want to fire him. Will the company have to pay him any money?'

Answer: _____

c 'My father is a director of a company. He doesn't make decisions for the company, or have any say in the running of the company, but he does give advice. He's more like a consultant, really. What sort of director is he, and does he have any legal responsibilities to the company?'

Answer: _____

d 'I've got a friend called Fred. He isn't officially a director of a company, but he tells the official directors what to do and basically he's the person that runs the company. Is he a sort of director?'

Answer: _____

e 'Can you please explain again what fiduciary duty means?'

Answer: _____

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Exercise 3

More of the participants have asked questions. Match the following questions with Greg's advice in the blue box below.

a 'We are the directors of Fixit Ltd. We want to keep our shareholders happy by declaring a large dividend. Is that always OK?'

b 'I'm the director of Marsh Ltd. I also own 76% of the shares in the company. Surely I can do what I want with regard to decision-making?'

c 'I own three houses. I want to sell one of them to the company. Is that allowed?'

d 'I'm a director of Linx Ltd. I also own a lot of shares in Freshthought Ltd. The two companies have entered into a contract and as a result I expect to make quite a lot of money from Freshthought Ltd. Can I keep that money and not tell anyone?'

e 'I am currently negotiating a new director's service agreement with the company. I would like the agreement to be for a fixed-term period of eight years. Is that OK?'

Greg's advice

'Well, even though you are the majority shareholder as well as a director, you have to give equal consideration to all of the company's shareholders. You must consider the interests of the shareholders as a whole, including the minority shareholders.' (1)

'Yes, but remember that any director's contract of employment with a term of two years or over has to be approved by the shareholders.' (2)

'Yes, a company is permitted to purchase property from a director of that company. However, substantial deals of that sort have to be approved by the shareholders.' (3)

'By law, you must declare any potential conflict of interest. You have to tell the other directors about your interest in the other company and you mustn't vote on the deal. Also, you mustn't use your position to make private profits in a way that means the company loses money. If you do, you may have to hand that profit over to the company.' (4)

'It isn't always the best option, attractive though it may seem. You must remember that the company is a separate legal entity from its directors, shareholders and employees. What may be the best for the members, may not be the same as what is in the best interests of the company. Your action may lead to a cash shortage, which would conflict with the interests of the company.' (5)

LISTENING

Exercise 1

Listen to Greg Harrison. He is giving the second part of his seminar about directors. In this part of the seminar, Greg is outlining the duties of directors. Answer the following questions.

a Greg Harrison says that the role of a director developed from two sources. One was statute. What was the other source?

Answer: _____

b Why do directors have a fiduciary duty to the company?

Answer: _____

c In what year were the duties of a director codified?

Answer: _____

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d Why did the new Companies Act include a statutory statement of directors' duties?

Answer: _____

e How many duties for directors are specified in the new legislation?

Answer: _____

f According to section 172, what do the directors have a duty to promote?

Answer: _____

g What is the factor which decides how much skill and care that directors must exercise in carrying out their duties?

Answer: _____

h The fifth duty is contained in section 175. What must directors avoid?

Answer: _____

i In section 177, what must a director declare in relation to a proposed transaction?

Answer: _____

j What is the possible punishment for failing to comply with the duty contained in section 177?

Answer: _____

m

Collocation bank

- to **appoint** a director
- to **remove** a director
- **good** faith
- to act **improperly**
- to **declare** a dividend
- to give **consideration** to
- a **conflict** of interest
- to **give** advice

m

Preposition bank

- to have **at** least a particular number
  'A public limited company must have **at** least two directors.'
- to appoint someone **as** a director
  'They decided to appoint Bella Martin **as** the new director.'
- to be satisfied/dissatisfied **with** something
  'The shareholders were dissatisfied **with** the explanation given by the directors.'
- to be classed **as** something
  'Truepaint Ltd is classed **as** a medium sized enterprise.'
- to act **in** the interests **of** someone
  'We are acting **in** the interests **of** the company.'
- to lead **to** something
  'If you are late in filing your tax return, this may lead **to** a fine.'
- to be disqualified **from** something
  'He was disqualified **from** driving for two years.'
- to act **in** good faith
  'Directors must always act **in** good faith.'

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COMPANY MEETINGS

Exercise 1

Ellson Garwood solicitors have written some briefing notes for their corporate clients. The notes deal with company meetings. The first page of the briefing notes appears below. Fill each of the gaps in the notes with the correct word from the list in the blue box.

pass	**extraordinary**	**elect**	**poll**
show	**proxy**	**have**	**proposed**
convene	**resolution**	**unanimously**	**taking**

Ellson Garwood solicitors

Briefing notes

Company Meetings

The two main types of company meeting are the annual general meeting and the (**a**) _____ general meeting. These meetings are often referred to by their abbreviations, AGM and EGM. In *general English*, we use the expression 'to (**b**) _____ a meeting'. In *legal English*, we use a more formal expression, which has the same meaning. Lawyers say to hold a meeting or to (**c**) _____ a meeting.

Any meeting which is not an AGM is an EGM. An EGM can take place any number of times. Until 2007, every company had to convene an AGM every calendar year. This is still true for public limited companies. However, following the introduction of the Companies Act 2006, private limited companies are no longer obliged to hold an AGM. The purpose of the AGM is to consider the accounts and reports of the auditors and directors, to declare any dividends and to (**d**) _____ new directors or auditors.

The rules on voting at a meeting are found in a company's articles of association. Voting at company meetings is usually by a (**e**) _____ of hands, with each member having one vote. The other method of voting is by a (**f**) _____. In this case, a written record is kept and each member has a vote for every share that he or she holds.

A (**g**) _____ is a decision made by the directors or shareholders of a company. In *general English* we talk about making a decision or (**h**) _____ a decision. In *legal English* we say to (**i**) _____ a resolution or to carry a resolution.

A (**j**) _____ resolution is called a motion. If the necessary majority is not obtained, then the motion fails. If the necessary majority is obtained, the resolution is passed. If everyone present at the meeting agrees to the resolution, it is passed (**k**) _____. When a resolution is passed the company is bound by it. This means that all the shareholders and the company must abide by the terms of the resolution.

If a member is not able to attend a meeting in person, he or she can appoint a (**l**) _____ to attend and vote on his or her behalf.

page 1

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Exercise 2

Here is the second page of the briefing notes about meetings. Read the information and decide if the statements that follow are true or false.

Ellson Garwood solicitors

Briefing notes

Company Meetings

All the shareholders must be given the required length of notice of a general meeting. The usual period of notice is either 14 days or 21 days, depending on what the meeting is about.

When the meeting takes place there must be enough shareholders present to form a quorum. That minimum number is specified in the company's articles of association. The required number is often two. If there are not sufficient people present who are entitled to vote on the business being discussed, then no decisions can be taken and the meeting must be adjourned to a later date.

Decisions made at meetings are called resolutions. There are a number of different types of resolution, but the three most commonly used are:

- Ordinary resolution. This requires a simple majority of members voting in favour, either personally present or voting by proxy. Most company decisions are taken by ordinary resolution.
- Special resolution. This requires a majority of 75% of those voting in favour, either personally present or voting by proxy. There are several purposes for which a special resolution must be passed. These include altering the objects of the company, changing the company's name or changing a company's articles of association.
- Written resolution. Following the introduction of the 2006 Companies Act, private limited companies can now use written resolutions for most decisions. A written resolution avoids the necessity of holding a meeting. The aim of the legislation is to reduce the need for formal general meetings for private limited companies, while still imposing a higher set of obligations on public limited companies.

At the meeting, someone will be asked to 'take the minutes' of the meeting. The minutes are a written record of proceedings at each general meeting.

There are standard templates that you can use to help you produce company notices and minutes. Ellson Garwood can advise you on your particular requirements. For more details contact Fiona Bailey on 07865 433388 or email Fiona at f.bailey@ellsongarwood.co.uk

page 2

a	The notice period for a company meeting is always at least 21 days.	**True**	**False**
b	The minimum number of members who must be at the meeting so that the meeting can take place is always two.	**True**	**False**
c	If there is no quorum, the meeting has to be postponed.	**True**	**False**
d	There are just three types of resolution.	**True**	**False**

continued

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e	An ordinary resolution requires at least 51% of people who are voting to vote in favour of the resolution.	**True**	**False**
f	The new companies legislation in the UK tries to reduce the necessity of holding meetings for private limited companies.	**True**	**False**
g	The minutes of the meeting explain how long the meeting lasted.	**True**	**False**

Exercise 3

Booktell Ltd is a private limited company that distributes educational books around the world. The shareholders of Booktell Ltd have each received this notice of the company's annual general meeting. Fill the gaps in the notice with the correct word from the box below.

- **member**
- **proxy**
- **poll**
- **Registered**
- **accounts**
- **auditors**
- **directors**
- **held**

BOOKTELL LIMITED
Company No. 2753958
('the Company')
NOTICE OF ANNUAL GENERAL MEETING

The annual general meeting of the Company will be (**a**) _____ at The Burlington Hotel, The Parade, Chatsworth, CH1 5JM on 18 July 20XX at 2.00pm for the following purposes:

1. To receive the report of the directors and the audited (**b**) _____ for the year ended 31 March 20XX.
2. To re-appoint AB Chartry & Co as (**c**) _____.
3. To authorise the (**d**) _____ to fix the remuneration of the auditors.

By order of the Board.

Secretary

Date: 21 May 20XX

(**e**) _____ office: 5 East Side, Blagfields Industrial Estate, Chatsworth, CH8 7HN

Note:
A (**f**) _____ entitled to attend and vote at the meeting is entitled to appoint a (**g**) _____ to attend and, on a (**h**) _____, vote instead of him. A proxy need not be a member of the Company.

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Collocation bank

- to **hold** a meeting
- to **convene** a meeting
- to **make** a decision
- to **take** a decision
- to **pass** a resolution
- to **carry** a resolution
- to **obtain** a majority
- to **appoint** a proxy
- to **form** a quorum
- a **simple** majority
- to **take** the minutes
- to **adjourn** a meeting

Preposition bank

- to have a meeting **with** someone
  'We need to have a meeting **with** our accountant soon.'
- the rules **on/about** something
  'You must comply with the rules **on** voting at company meetings.'
- a show **of** hands
  'We'll vote on this motion by a show **of** hands.'
- to attend **in** person
  'I'm afraid I can't attend the meeting **in** person as I will be in Canada.'
- to vote **by** proxy
  'I can't attend the meeting so I'll vote **by** proxy.'
- to give notice **of** something
  'The members were given notice **of** the EGM.'
- to vote **in** favour **of** something
  'Would all those people voting **in** favour **of** the motion please raise their hands?'
- to take the minutes **of** a meeting
  'Harry, please will you take the minutes **of** this meeting?'

INSOLVENCY

Exercise 1

On the next two pages you can see some notices which have been published in a newspaper. These notices refer to a number of companies that are in financial difficulties. In the box below are some words that are used in the notices. Match each of the words in the box with the correct meaning provided below.

Liquidator (1)
Members' voluntary liquidation (2)
Receiver (3)
Administration Order (4)
Administrator (5)
Winding-up order (6)
Official Receiver (7)
Compulsory liquidation (8)

a This is when the shareholders of a company decide to close the company and there are enough assets to pay all the debts of the company.

b This is when the shareholders of a company decide that they must close the company, because there are not enough assets to pay all the debts of the company.

c This is an order made by a court for a company to be closed.

d This is an order made by a court that gives a company some time to try to resolve its financial difficulties or sell its assets in order to pay its creditors.

e This is a person who supervises companies which are in administration. This person has passed special examinations to become an authorised insolvency practitioner.

f This is a person who supervises the closing of a company which is in liquidation.

g This is a person who is appointed by a creditor of a company to take control of that company in order to sell its assets and pay the money it owes to that creditor.

h This person is a government official who is appointed to close a company which is in financial difficulties.

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Exercise 2

Find a word in the notices that matches each of the following meanings.

a The type or category of something.

The word is _____

b An abbreviation that means 'insolvency practitioner'.

The word is _____

c An abbreviation that means 'number'.

The word is _____

d An abbreviation that means 'care of'.

The word is _____

e A formal application made to a court to request a specific legal action. Here, the action asked for is to put a company into liquidation.

The word is _____

f An old-fashioned word that means the things that belong to someone.

The word is _____

g A formal phrasal verb that means to give to someone.

The word is _____

Appointment of Liquidators

Company Number: 099974622.

Name of Company: **LANCO LIMITED**.

Nature of Business: Manufacture of food products.

Type of Liquidation: Members' voluntary liquidation.

Address of Registered Office: Fine House, Sharpes Road, Linchester LN32 7BA.

Liquidators' Names and Addresses: Nigel Orm, 1 Station Road, Linchester, LN3 7VX and Alistair Dean, 3 Prince Street, Linchester, LN1 4FP. Office Holder Numbers: 97983 and 97291.

Date of Appointment: 2 August 20XX.

By whom Appointed: Members.

Appointment of Receivers

Company Number: 085743.

Name of Company: **BARTSON LIMITED**.

Nature of Business: Manufacture of paper products.

Address of Registered Office: Unit 3, Frosham Industrial Estate, Chatsworth, CH5 4KM.

Receivers' Names and Addresses: Helen Woods and Simon Allen of Jackson LLP, 4 Arcade House, Chatsworth, CH1 9DV. IP Numbers: 97983 and 97291.

Date of Appointment: 2 August 20XX.

By whom Appointed: Royal Chatsworth Bank.

Administration Orders

In the High Court of Justice No 1221 of 20XX

MODEL RAIL LIMITED
(Company Number 888564732)

Registered Office: Hanover Hall, 6 Reginald Street, Oxton, Hapshire OX1 6QD.
Nature of Business: Educational Toys.

Administration Order made: 29 July 20XX.

P B Norris (Office Holder No 87699), Taylor Wallis, Newater Street, London EC5 9HN, and S J Pederson (Office Holder No 36528), 21 Footgate Park, London EC9 6PP, Joint Administrators.

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Appointment of Administrators

In the High Court of Justice (Chancery Division)

Chatsworth District Registry No 111 of 20XX

Comp Professional Limited
(Company Number 2727164)

Registered Office of Company: c/o Hedgsons LLP, 1 High Street, Chatsworth, CH1 6GT.

Nature of Business: Computer Related Activities.

Date of Appointment: 7 August 20XX.

Joint Administrators' Names and Address: Kim Watts and Keith Price (IP Nos 6103P and 7583H), both of Hedgsons LLP, 1 High Street, Chatsworth, CH1 6GT.

9 August 20XX.

Winding-up Orders

Name of Company: Yeloo Services Ltd. Company Number – 1827540385.

Address of Registered Office – 4 Gover Way, Ellerton, EL8 6EJ.

Court – High Court Of Justice.

Date of Filing Petition – 18 May 20XX. No. of Matter – 0003958 of 20XX.

Date of Winding-up Order – 25 July 20XX.

Official Receiver – 4th Floor, Tower House, 4 The Parade, Oxton, Hapshire OX6 7RX.

Notice to Creditors

Treeland Property Services Limited

(in Compulsory Liquidation)

In accordance with Rule 4.106, I, Kim Watts, of Hedgsons LLP, 1 High Street, Chatsworth, CH1 6GT, give notice that I was appointed Liquidator of the Company on 23 July 20XX. All persons having in their possession any of the effects or assets of the Company must deliver them up to me and all debts due to the Company must be paid to me. Creditors who have not yet proved their debts must do so by 10 August.
K Watts, Liquidator.

3 August 20XX.

Exercise 3

Read the notices again and decide if the following statements are true or false.

a	Lanco Ltd is insolvent.	**True**	**False**
b	The Royal Chatsworth Bank is a creditor of Bartson Ltd.	**True**	**False**
c	Two people have been appointed to supervise Model Rail Ltd.	**True**	**False**
d	The petition to wind up Yeloo Services Ltd was presented on 25 July 20XX.	**True**	**False**
e	Anyone who thinks that Treeland Property Services Ltd owes money to them must inform Kim Watts.	**True**	**False**

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Exercise 4

In or into. It is sometimes difficult to know which of these prepositions to use when you are talking about liquidation or administration. To help you to decide, we usually use 'in' to describe the *state of* the company which is *in liquidation or administration* and 'into' to describe the *procedure of* putting the company *into* liquidation.

Complete the following sentences with in or into.

a I am writing in connection with Groves Ltd, which is _____ administration.

b I am writing to notify you that Justex plc has been placed _____ administration.

c It was announced yesterday that Beans Ltd has gone _____ liquidation.

d I am acting for the creditors of a company called Larkson Ltd, which is _____ receivership.

e Sound Music Ltd went _____ compulsory liquidation last year following a series of bad decisions taken by the directors.

f The members of Highfold Ltd have decided to put the company _____ liquidation.

WHO GETS THE ASSETS?

Exercise 1

Read the following summary of the liquidation process. Fill each of the gaps in the text with the correct word from the box below.

- **exist**
- **raise**
- **pay**
- **prevent**
- **sell**
- **collect**

The effect of the liquidation of a company is to (**a**) _____ that company from trading as a commercial entity. The liquidator has to (**b**) _____ all the company's assets and then (**c**) _____ them. The aim is to (**d**) _____ as much money as possible. This process is called realisation of the assets. The proceeds of the sale of the assets are then used to (**e**) _____ as many people as possible who are entitled to this money. It is often the case that not everyone will get the money that they are owed. The liquidator pays people in a particular order of priority.

This order of priority is:

- the costs of winding-up (including the liquidator's own fees and expenses)
- creditors with fixed charges
- preferential creditors (for example, wages and salaries owed to employees, and money due to the government in respect of tax)
- other secured creditors
- unsecured creditors
- interest on debts
- shareholders

When the winding-up is complete, the company is dissolved and it does not (**f**) _____ any longer as a legal entity.

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Exercise 2

Here is the liquidator's list of people or costs that the liquidator must pay. Match each category of people or costs with the correct definition in the blue box below.

a The costs of winding-up

b Creditors with fixed charges

c Preferential creditors

d Other secured creditors

e Unsecured creditors

f Interest on debts

g Shareholders

These are the people who own the company. (1)

These are people or other companies who the company which is in liquidation owes money to, usually because the company borrowed money from them. These people or companies took security (for example, a mortgage) from the company which is in liquidation to guarantee repayment of the loan. This security was secured against the fixed assets owned by the company, for example real estate or machinery. (2)

This is the amount of money that you have to pay as a fee or a sort of penalty for money that you owe to someone. It is usually expressed as a percentage. (3)

This includes the liquidator's fees and expenses as well as any legal costs. (4)

These are people or other companies who the company which is in liquidation owes money to. However, these people or companies did not take any security from the company which is in liquidation to guarantee payment of the money. (5)

These include people who are owed money by the company which is in liquidation and who are considered to have priority over other creditors, even though they have no security to guarantee payment. It includes money due to the government in respect of tax, and wages owed to employees. (6)

These are people or other companies who the company which is in liquidation owes money to. These people or companies took some sort of security from the company which is in liquidation to guarantee payment of the money. However, the security was not secured against the fixed assets owned by the company. (7)

Collocation bank

- to **go** into liquidation/ receivership /administration
- to **be** in liquidation/ receivership /administration
- to **put/place** a company into liquidation/receivership/ administration
- to **present** a petition
- to **realise** assets
- **secured/unsecured** creditors
- to **dissolve** a company

Preposition bank

- to go **into** liquidation/receivership/ administration

  'Have you heard? Lextext Ltd has gone **into** administration.'

- *the proceeds* **of** *sale*

  'What are you going to do with the proceeds of the sale **of** your house?'

- to be **in** liquidation/receivership/ administration

  'I regret to inform you that Vantage Ltd is now **in** liquidation.'

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USING YOUR KNOWLEDGE

Collocation review

Complete these sentences with a collocation that you have seen.

a We are _____ a meeting, which will be held on 5 October.

b At the company meeting the members _____ a resolution to change the name of the company to Jedexpress Ltd.

c We need to look at ways of _____ finance, as we need more money if we want to go ahead with this project.

d The creditors presented a _____ requesting that the company be wound up.

e The chairperson asked me to _____ the minutes of the meeting.

f The shareholders no longer want Mr Fox as a director of the company. They think that Mr Fox is not performing his duties properly. They will discuss the motion to _____ this director at the meeting next week.

g I am unable to attend the meeting next week, so I have _____ a proxy to go to the meeting and vote on my behalf.

h I am sorry but we will have to _____ this meeting to Monday of next week.

i Kingsford Electronics Ltd was _____ into administration last week.

j The Official Receiver is the liquidator and he is in charge of _____ the assets of the company. That means he must sell the assets and use the money from the sale to pay the creditors.

Vocabulary review

Complete these sentences with a word that you have seen.

a A proposal which is being discussed at a meeting is called a _____.

b The _____ of a meeting provide the details of what happened at that meeting.

c The _____ of sale of something means the money that you get when you sell that thing.

d Can the meeting go ahead? How many people are here? Do we have a _____ present?

e The _____ are coming next week to check the financial records of the company. You will need to be here in case they have any questions.

f One of the methods of voting at a company is by way of a written vote. This is called a _____.

g This person has not been appointed as a director. However, he is the person who tells everyone what to do. He is known as a _____ director.

h A situation in which two companies decide to join together permanently is a _____.

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i A formal word for the purchase of a company is an _____. Informally, people often refer to it as a takeover.

j Directors who are closely involved in the decision-making of a company are known as _____ directors.

Preposition review

Complete these sentences with the correct preposition.

a After six years of trading, Baxters Ltd went _____ liquidation.

b Caroline Thomson has been disqualified _____ being a director of any company for five years.

c We need _____ least five shareholders to attend the meeting in order to form a quorum.

d I can't attend the meeting _____ person, so I will vote by proxy.

e I am a lawyer in the corporate department. At the moment I am advising _____ a new joint venture project.

f We will need to arrange a meeting _____ a tax specialist soon.

g Directors have a duty to act _____ the best interests of the company.

h How many people are _____ favour of this deal?

i Well done everyone. Our client will be extremely satisfied _____ the outcome of the negotiation.

j This action may lead _____ a claim being made by our suppliers.

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TOLES HIGHER EXAM PRACTICE

Exercise 1

There is a word or phrase missing from the following sentences. For each sentence circle the word which best fits into the space from the options provided below. There is an example at the beginning (*).

Example: Each year, our company's financial records are checked by an independent accountant called an (*) _____.

1 Directors have to act in the best interests of the company as a whole. This is known as their (1) _____ duty.

2 At the extraordinary general meeting last week, the shareholders (2) _____ a resolution to change the company's name.

3 There was no quorum present, so the meeting was (3) _____. It will take place on 14 October.

4 Following his failure to submit the company's annual return to Companies House or respond to any letters, he was finally (4) _____ from being a director for two years.

5 The directors and shareholders agreed that the company was making huge losses and they had no other choice but to put the company into (5) _____.

6 The shareholders voted to (6) _____ William Ashby as a new company director for a fixed term of five years.

7 Jane Abbots formally declared that she had a personal interest in the transaction that was being discussed, which may (7) _____ with the interests of the company. She did not vote on that transaction.

8 An (8) _____ director is actively involved with the day-to-day decision making of the company.

9 There is a lot of work in the mergers and (9) _____ department at the moment. I am currently acting for a corporate client which is buying all the shares in another company.

10 After payment of the secured creditors, the liquidator must pay the (10) _____ creditors, for example any tax owed to the government.

(*)	**A** examiner	**B** assessor	**C** auditor	**D** inspector
(1)	**A** goodwill	**B** fiduciary	**C** loyalty	**D** good faith
(2)	**A** voted	**B** decided	**C** passed	**D** agreed
(3)	**A** delayed	**B** suspended	**C** stopped	**D** adjourned
(4)	**A** disqualified	**B** stopped	**C** prevented	**D** unauthorised
(5)	**A** liquidation	**B** winding up	**C** ruin	**D** insolvency
(6)	**A** select	**B** hire	**C** employ	**D** appoint
(7)	**A** dispute	**B** conflict	**C** clash	**D** contradict
(8)	**A** managing	**B** exclusive	**C** executive	**D** non-executive
(9)	**A** acquisitions	**B** takeovers	**C** purchases	**D** companies
(10)	**A** special	**B** preferred	**C** guaranteed	**D** preferential

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Exercise 2

Read the following minutes of a meeting of a company. The missing words are in the list below. For each gap choose the word which best fits into the space from the options provided. Use each option only once. Write your answers in the box below. There is an example at the beginning (*).

W & S LIMITED
MINUTES of an Extraordinary General Meeting of the Company held at 34 Hengrove Street, Chatsworth, CH5 8FL on 15 May 200X at 10.00am

Present:

Neil Wright (Chairman)
Katrina Spence
Josie Abbots
David Peters

1. The Chairman announced that (*) _____ to the Meeting being held at short notice had been received from all the members of the Company having a right to attend and (1) _____ at the Meeting.
2. The Chairman announced that a (2) _____ was present.
3. The Chairman (3) _____ the resolution in the notice. The Chairman put the resolution to the meeting, took the vote on a (4) _____ of hands and declared the resolution (5) _____ unanimously as an ordinary resolution of the Company.
4. There being no further business the meeting terminated.

Neil Wright
Chairman

(AA) consent	**(B) quorum**	**(D) vote**
(A) show	**(C) carried**	**(E) proposed**

(*) AA	(1)	(2)	(3)	(4)	(5)

Listening

Exercise 3

A lawyer is speaking to a group of trainee solicitors, who are starting their work experience in her department. Some of the words are missing. Listen carefully and fill in the missing words. Write your answers in the box below.

'Hello and welcome to the Banking and Insolvency department. My name is Kim Watts and I'm very pleased to meet you all.

This is quite a large department, doing a lot of varied work. I specialise in insolvency. Most of our clients are either banks or companies. The banks have generally made a large loan to a company, often secured by a debenture, and now the company is failing to make its repayments on the loan, because it is in

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financial (1) _____. The bank instructs us to assist with the recovery of the debt. Our other clients represent the other side of the coin. They are companies who are facing insolvency and they come to us for advice on the best way forward.

The most common description of insolvency is that a company cannot pay its debts when they become due. There are various insolvency procedures that are available to companies. I'd like now to briefly outline these procedures, as they often cause confusion until you become more familiar with them.

First is the compulsory liquidation of a company. This is when the court orders the company to be wound up. Winding up usually starts by a creditor making a petition on the (2) _____ that the company cannot pay its debts. The Official Receiver, who is an officer of the court, becomes the liquidator of the company and he or she has a duty to investigate the company's affairs and the causes of its failure, including the conduct of the directors. A director can be disqualified from acting as a director for a period of time if, for example, he or she made the position of the creditors worse by continuing to trade when the company was insolvent. When the winding up is complete, the company is formally (3) _____ and it no longer exists.

Next is administration. This is a court order made to appoint an administrator to (4) _____ the company's affairs. A court may make an administration order when the company is unable to pay its debts and the court considers that by making an administration order, the whole or part of the company may be saved as a going (5) _____. The company, its directors or its creditors start the procedure by making a petition against the company. While an administration order is in force, the company cannot be wound up and legal proceedings against the company cannot be started except with approval of the court. The administrator takes control of all the property of the company and makes proposals for the creditors to consider. The administration order continues until the court decides that the order is no longer needed and formally discharges it.

Another insolvency procedure is receivership or administrative receivership. A receiver is appointed by the holder of a debenture of the company secured by a floating charge. Usually this is a bank. The company is said to be "in receivership". The receiver has the power to sell the assets covered by the floating charge and give the (6) _____ to the charge-holder.

A further procedure is a company voluntary arrangement. We call this a CVA. This is when a company makes an agreement with its creditors in order to (7) _____ its debts over an agreed period of time. The agreement has to be approved by the court. Meetings of the company and creditors are called to approve the proposed arrangement. Once approved, all creditors who had notice of the meeting and were entitled to vote are bound by the terms of the arrangement. The company can continue trading during the CVA and afterwards.

Finally, there are two types of voluntary liquidation. Members' voluntary liquidation means that the directors have made a statutory declaration of solvency – in other words, the directors believe that a company is solvent. This happens when a family business is sold off, for example, or if the purposes of the company have come to an end. The liquidation starts when the members, in a general meeting, (8) _____ a resolution to wind up the company voluntarily. Remember, if it is a voluntary liquidation, the company is not insolvent.

In the case of a creditors' voluntary liquidation, the company cannot pay its debts. The process is started by the directors, not the creditors. The company carries an extraordinary resolution to say that it cannot continue in business because of its liabilities and that it is advisable to wind up. A liquidator is appointed to wind up the company's affairs. The liquidator does this by (9) _____ the company's assets and paying its creditors. If anything is left over, the members of the company receive it.

In both types of voluntary liquidation, when the company's affairs are fully wound up, the formal dissolution of the company occurs and it (10) _____ to exist.

Well, I hope that helps just a little. I am sure that you will gain some experience of all these procedures during your six-month period with this department. We have a great team here and everyone will be very happy to answer any questions you have, so please feel free to come to any of us at any time.'

(1)	(2)	(3)	(4)	(5)

(6)	(7)	(8)	(9)	(10)

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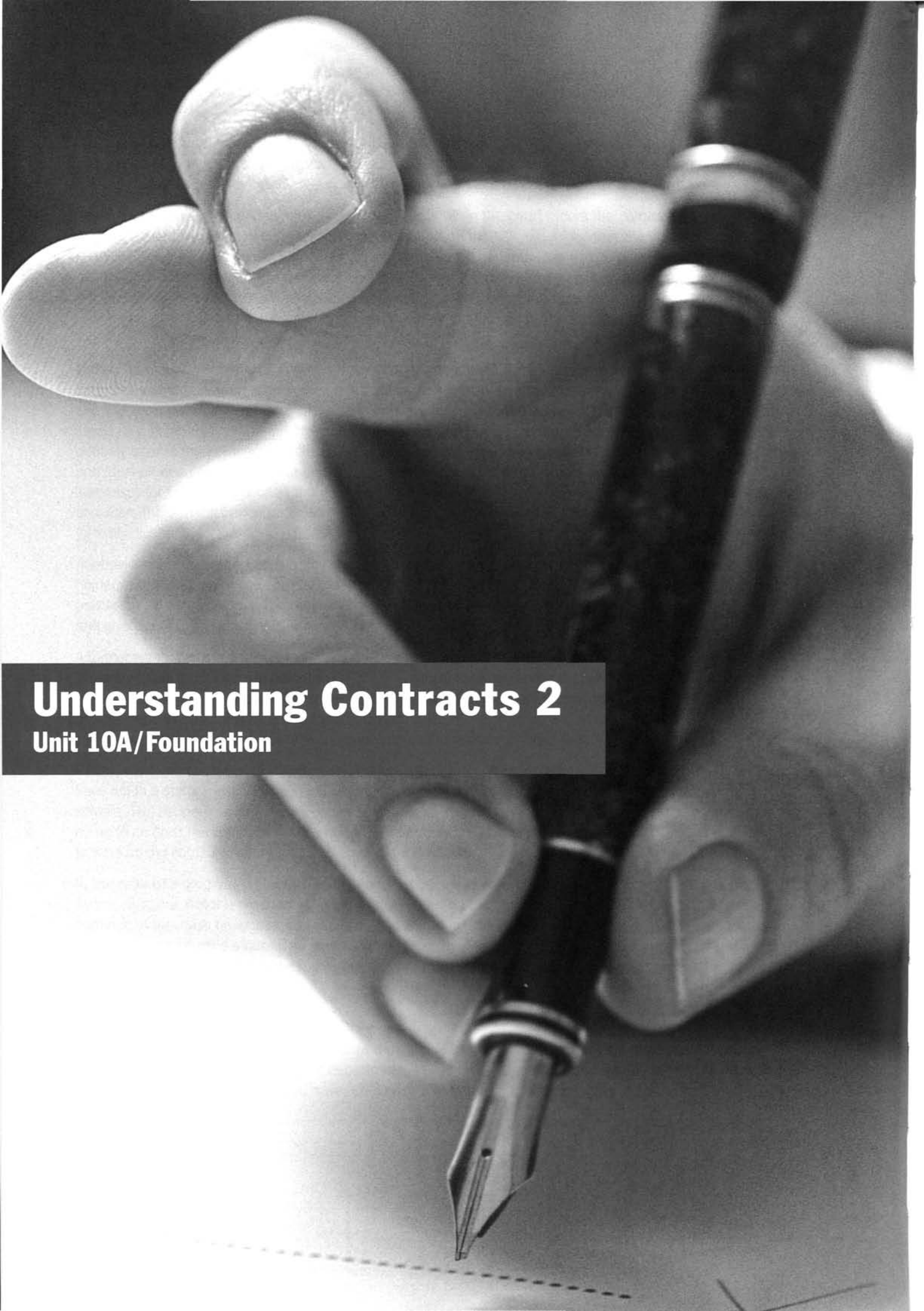

Understanding Contracts 2

Unit 10A/Foundation

UNDERSTANDING CONTRACTS 2

SOME MORE TYPICAL CONTRACT CLAUSES

Read this text about some of the typical clauses you will find in commercial contracts. The most important words are in the key vocabulary below. Complete the exercises that follow.

Key vocabulary

- **term**
- **expiration**
- **author**
- **termination**
- **confidential**
- **creative work**
- **disclose**
- **copyright**
- **freelance**
- **intellectual property**
- **commissions**
- **non-disclosure**

At the beginning of most commercial contracts there are sections that deal with information such as the names of the parties, the background to the contract and the defined terms. After these sections you will find the main body of the contract. The main body of the contract is made up of clauses. There are some types of clause that you will find in most commercial contracts.

A commercial contract usually contains, for example, a clause that states what the **term** of the contract will be. The term of the contract is the duration of the contract. It means the period of time for which the contract is valid. There will also be a **termination** clause. This clause contains information about the expiration of the contract. Expiration means end. So, the agreed date of **expiration** of a contract is the agreed date upon which the contract will end. A contract of employment, for example, might have a term of one year. The termination clause tells the employer and the employee how the contract can end after a shorter period of time, before the agreed date of expiration.

There is often a clause in a contract that deals with information that must remain secret. This clause usually obliges one of the parties to keep **confidential** certain information connected with the other party. For example, let's say an advertising company enters into a contract with a drugs company. The advertising company agrees to create an advertising campaign for a new kind of medicine that the drugs company produces. The contract will include a clause that obliges the advertising company not to tell or **disclose** certain information to any third party about the drugs company's products, production methods or financial information. This clause is often known as the confidentiality clause or the **non-disclosure** clause.

Many modern contracts also have a clause that deals with **intellectual property** rights. This is very common in contracts under which someone such as an **author** or a self-employed, **freelance** designer produces **creative work** for a third party such as a publisher or a company. For example, Anna is a good artist. She designs birthday cards for children. The Cinderella Card Company **commissions** Anna to create two new designs for its birthday cards. To commission someone means to formally ask that person to do something or produce something, usually of a creative nature. The contract should make clear who is the owner of the design after the company prints the cards. Is it Anna or is it the card company? Can the card company use Anna's designs on other goods? The design is intellectual property and it can be very valuable. Most contracts make clear who has **copyright** in intellectual property. To have copyright in a design, for example, means that you are the owner of that design.

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Exercise 1

Match these words from the key vocabulary with the more informal word that has the same meaning.

a	Term means...	...end. (1)
b	Expiration means...	...self-employed. (2)
c	Confidential means...	...end. (3)
d	Disclose means...	...secret. (4)
e	Freelance means...	...duration. (5)
f	Author means...	...writer. (6)
g	Termination means...	...tell. (7)

Exercise 2

Complete these definitions with the correct word from the key vocabulary.

a _____ is work that requires some imagination, such as a painting, a book or a song.

b To have _____ in creative work, such as a book or a song, means to have legal ownership of that work.

c The writer who writes a piece of work such as a book or a song is usually referred to in a contract as the _____ of that work.

d To be a _____ worker means to be self-employed, usually in a creative area of work such as design.

e Sometimes large businesses _____ freelance workers to do creative work for them, such as designing a company logo.

f A _____ clause states the way in which a contract can come to an end.

g _____ information is information that is private and must be kept secret.

h The parties to a contract often agree not to _____ any confidential information to any third party.

i Another word for the duration of a contract is the _____ of the contract.

j The _____ of a contract is the end of that contract.

k A _____ clause states that one party to the contract is not allowed to tell anyone certain confidential information concerning the other party.

l An _____ clause states which of the parties to a contract has copyright in creative work.

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SOME IMPORTANT COMMERCIAL VOCABULARY

Exercise 1

Look at this list of questions. Each question asks about the meaning of a word that is important in understanding commercial contracts. Match each question with the correct answer.

a What are **perishable** goods?

b What kind of goods can I describe as **merchandise**?

c What kind of building is a **warehouse**?

d What is a **budget**?

e What does it mean if I **owe** money to someone?

f What does **store** mean?

g Why are some buildings called **premises**?

h What does it mean if I pay for something in **instalments**?

i What is the job of a **liquidator**?

j What does it mean if a business is **insolvent**?

k What is an **invoice**?

l Why do some businesses put a **serial number** on their goods?

It means to pay for something in several regular payments over a period of time. Sometimes businesses pay for goods in this way. (1)

It means to keep goods in a particular place where the goods will be safe until you are ready to use them or you are ready to sell them. (2)

These are goods that the public can buy from shops. They might also be described as 'consumer goods'. (3)

It is a very specific amount of money. It is the exact amount of money that a person has available to spend in order to do a particular thing. (4)

Because this name is often used for buildings and land which are for businesses to use and not for people to live in. (5)

It is a person who sells the assets of a business in order to pay the business's creditors. This person is sometimes called 'a receiver'. (6)

It means that you have an obligation to pay money to that person. (7)

They are goods like meat, fish, milk or fruit. These things are impossible to use or to sell after a certain time because they become dangerous for people to eat. (8)

It is very similar to a bill. It is a list of goods or services that a seller supplies to a buyer and it names the price that the buyer must pay. It often says how many days the buyer has to make the payment, for example, 30 days. (9)

Some businesses do this so that they can identify their goods in the future. It helps the business in situations where they want to have their goods returned because the buyer did not pay. (10)

It is a large building where a business keeps goods for a period of time before it sells them. (11)

It means that the business does not have enough money to pay its debts. (12)

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Exercise 2

Here are the words from Exercise 1 again. These words are very common in commercial contracts, especially contracts for the sale of goods. Some of the words are connected with the subject of money and payment. The other words are connected with goods. Decide which area the words are connected with, money and payment or goods. Write your answers under the headings below.

- **insolvent** (*adjective*)
- **perishable** (*adjective*)
- **invoice** (*noun*)
- **budget** (*noun*)
- **warehouse** (*noun*)
- **liquidator** (*noun*)
- **merchandise** (*noun*)
- **instalments** (*noun*)
- **premises** (*noun*)
- **store** (*verb*)
- **owe** (*verb*)
- **serial number** (*noun*)

Money and payment	Goods

Exercise 3

Complete these sentences with a word from Exercise 2.

a The buyer will pay for the goods in six equal monthly _____.

b The agent has an advertising _____ of £10,000 to advertise the company's products in Italy and he must not exceed this amount without written permission.

c My company produces goods in China and we need a place to _____ the goods for three weeks before we transport them to England.

d A _____ is a large building that businesses often use to store their goods.

e Meat and fish are _____ goods and will go off very quickly if they are not stored correctly.

f This contract will terminate immediately if the buyer becomes _____ or has any other serious financial difficulty.

g How much money do we _____ to our supplier?

h We enclose our _____ with the goods, which gives a full description of the goods that the buyer ordered and the amount of money that the buyer must pay.

i If the buyer becomes bankrupt and a _____ is appointed to deal with the buyer's creditors, then the seller has the right to terminate the contract.

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j The business _____ for sale consist of a factory, a separate office building and a warehouse.

k It is easy to identify our company's goods if someone steals them because every item has a _____ stamped on it before it leaves the factory.

l The shop was full of _____ at the time of the fire and the retailer had to make a claim on his insurance policy for all of the goods that were destroyed.

Help desk

What do these words mean?

to exceed (something) – to go above the amount that is allowed.

to go off – when food such as fish or meat goes off it means that you cannot eat the food because it is decaying.

stamped on – put on or placed on, usually by a machine.

a creditor – a person or company that you must pay because they supplied you with goods or services.

a factory – a building where goods are manufactured. A factory is sometimes called a 'plant'.

a retailer – a person or company that sells goods to the public.

TERMINATION CLAUSES

Exercise 1

Read this text about termination clauses. Complete the text by filling each gap with the correct word from the box below.

money	**end**	**stops**	**terminated**
serious	**protect**	**commits**	**lose**
writing	**small**	**gives**	

All modern commercial contracts contain a termination clause. This clause tells the parties the circumstances under which the contract can (**a**) _____ before the agreed date. A termination clause often lists three ways in which this can happen. When a contract ends before the agreed date we say that the contract is (**b**) _____.

- The first way in which a contract can terminate is that one party (**c**) _____ notice to the other. This is a period of warning that one party is about to end the contract. It is usual for a termination clause to say that notice must be in (**d**) _____. A typical notice period in an employment contract, for example, is four weeks.
- The second way in which a contract can terminate is in circumstances where one of the parties (**e**) _____ a material breach of the contract. A material breach is a significant breach. The breach must have a major effect on the injured party. It is not usually possible to terminate a contract because of a minor breach. A minor breach is a (**f**) _____ and more insignificant breach. A court in the UK does not consider this type of breach (**g**) _____ enough to end the contract.
- The third way in which a contract can terminate is in circumstances where one of the parties has serious problems concerning (**h**) _____. Many termination clauses state that if one party's business goes into liquidation and a liquidator is appointed to sell the assets of the business, this will terminate the contract. This is to (**i**) _____ the party who may (**j**) _____ money if the contract is allowed to continue. Many termination clauses also state that if one party's business ceases trading, which means it (**k**) _____ operating as a business, then the contract will terminate immediately.

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Exercise 2

Here are some questions and answers about termination clauses. Match each question with the correct answer.

What is the correct way to say that one party is warning the other party that a contract is about to end? (1)

A termination clause usually requires the parties to give notice in a specific way. What is the usual way to give notice? (2)

How long is a typical notice period stated in the termination clause of an employment contract? (3)

What is a material breach? (4)

What is a minor breach? (5)

Is a minor breach sufficient to terminate a contract according to UK law? (6)

What is a liquidator? (7)

What are assets? (8)

What does cease trading mean? (9)

Who are creditors? (10)

a It is a very serious breach.

b It means to stop operating as a business.

c It is usually four weeks.

d They are people or companies that you must pay.

e It is a breach that is not too important.

f It should usually be in writing.

g They are the things that a business owns, such as equipment or machinery.

h No.

i It is called giving notice.

j It is a person who must sell the assets of a company in order to pay that company's debts.

Exercise 3

Here is a simple example of a termination clause. Complete the clause by filling the gaps with a word from the blue box below.

material **ceases** **written** **Agreement**

7. TERMINATION

Either party may terminate this (**a**) _____ by

7.1 giving six weeks' _____ notice to the other; or

7.2 giving notice where there is a _____ breach of terms; or

7.3 giving notice where one of the parties _____ to trade or is unable to pay its debts.

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INTELLECTUAL PROPERTY CLAUSES

Exercise 1

Read the following text about intellectual property clauses. The most important words are in the key vocabulary below. Answer the questions that follow using a full sentence.

Key vocabulary

- **assignor**
- **infringe**
- **assign**
- **assignee**
- **grant**
- **licence**
- **licensor**
- **licensee**
- **public domain**
- **encumbrance**
- **infringement**
- **intellectual property rights**

An intellectual property (IP) clause in a contract deals with ***intellectual property rights***. This means that the contract clearly states which of the parties owns any creative work, such as writing, music or designs. When a lawyer drafts an IP clause he or she must be sure of the wishes of the parties. Does the party who created the intellectual property really want the other party to have ownership of it? Or does he or she want the other party only to have permission to use the intellectual property for a particular project, but not to own it?

Let's look at an example. A songwriter sends a new song to an advertising company. The company agrees to pay the songwriter £5,000 to use his song in a television advertisement for coffee. The songwriter accepts. Two years later, the manager of a different advertising company contacts the songwriter. This advertising manager wants to use the same song in an advertisement for a car. Can the songwriter give permission to the second advertising manager to use his song? The answer is that it depends on the terms of the contract with the first company.

Did the contract with the first advertising company state that the songwriter agreed to **assign** all IP rights to the company? *Assign* means to transfer ownership. If the answer is 'yes', then the advertising company owns the song. The songwriter cannot give permission to anyone else to use his song. He does not own it. This is bad luck for the songwriter and for the second company.

However, maybe the songwriter only agreed to **grant** a **licence** to the first company to use his song. In this case, this means he gave the first company permission to use his song, but he remains the owner. Therefore, he can probably give the second company the right to use it too. Granting a licence is often a good idea. The creator of the work can make money from his or her work but continues to own the work.

A person who assigns his or her IP rights is called an **assignor** in a contract. In our case the assignor is the songwriter. The person or company who buys the IP rights is called the **assignee**. A person who grants a licence to use his or her intellectual property is called a **licensor**. The person who is allowed to use the intellectual property is called the **licensee**.

When an assignor assigns his or her IP rights to a third party, the assignor usually has to make certain guarantees to the assignee. One of these is that the intellectual property assigned is free of any **encumbrance**. An encumbrance is the right that some third party has in the intellectual property. In our case the songwriter must guarantee that his song is completely his own work and he is legally able to assign it to the advertising agency.

A contract clause that deals with IP rights usually states what will happen when there is an **infringement** of the rights. To **infringe** an intellectual property right means to break the law concerning that right. We *breach* a contract but we *infringe* copyright.

When an assignee buys IP rights he or she usually requires a guarantee from the assignor that the work, for example, a book, a play, a song, is not in the **public domain**. In the public domain means the public can find the work easily because the work is on the Internet or copies of it exist. In our case the songwriter cannot give this guarantee. His work is in the public domain because it was on television.

a What must a lawyer be sure of when he or she drafts an intellectual property clause?

Answer: He or she must be sure of _____

b What does to assign ownership of IP rights mean?

Answer: To assign ownership of IP rights means to _____

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c In situations where I want to give a company permission to use my intellectual property for a particular project what must I do?

Answer: In situations such as this I must _____

d What is an assignor?

Answer: An assignor is a person or company that _____

e What is an assignee?

Answer: An assignee is a person or company that _____

f What is a licensor?

Answer: A licensor is a person or company that _____

g What is a licensee?

Answer: A licensee is a person or company that _____

h What is an encumbrance?

Answer: An encumbrance is a _____

i What does to infringe an IP right mean?

Answer: To infringe an IP right means to _____

j Where do we say intellectual property is when intellectual property is easily available to the public?

Answer: We say that intellectual property is in _____

Exercise 2

Complete the following sentences with a word from the key vocabulary in Exercise 1.

a Who owns the _____ in this piece of writing?

b My client is interested in buying your designs and he wants permanent ownership of them. Are you willing to _____ your IP rights to him?

c My client is a publisher and she wants to use your designs as an illustration in a new book. However, she does not want to buy the IP rights to the designs. I have instructed her that to do this she needs a _____ from you.

d Our client does not want to assign copyright in her design to anyone but she is willing to _____ a licence to you to use it.

e Your use of our company logo on your products is an _____ of our intellectual property rights and we will take legal action against you.

f Our client owns the IP rights in the design. When she grants a licence she will be described in the contract which grants the licence as the _____.

g Our client is selling the IP rights in the design. When she sells the rights to you she will be described in the sale contract as the _____.

h We want to use a piece of music in our new advertisement. However, we must first check that this will not _____ anyone's IP rights.

i My client paid £10,000 for the rights to the music and he is now the owner. In the sale contract he is described as the _____.

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j My client paid £1000 to use the music in his new radio advertisement. He is not allowed to use the music again without a new licence. In the contract which grants the licence he is described as the _____.

k It is important to the publishing company that no one has seen your new book. Are there any copies? Is any part of the book in the _____?

l The contract guarantees that you assign your work to the buyer free from any _____. This means that no third party has any interest in the work.

RETENTION OF TITLE CLAUSES

Exercise 1

Read this text about retention of title. Decide if the statements that follow are true or false.

Retention of title clauses

In a contract for the sale of ordinary goods which do not involve IP rights, there is a question about when title in the goods passes from one party to the other. To have title to goods means to be the legal owner of those goods. Lawyers also refer to having title in goods as having 'property in' goods. The two phrases mean the same thing. Having title in goods or having property in goods means to have legal ownership of those goods.

In a contract for the sale of goods there is often a clause called a retention of title clause. To retain something is to keep it. Let's say that there is a contract between a company that produces leather and a company that makes furniture. The leather company signs a contract with the furniture company. The leather company agrees to provide the furniture company with good quality leather, suitable for making chairs. The invoice states that the furniture company must pay for the leather within 30 days of delivery of the leather. However, the furniture company uses the leather to make chairs just seven days after receiving it. Who is the legal owner of the leather? When does ownership pass from the seller to the buyer?

Lawyers often include a retention of title clause in contracts for the sale of goods. This is a sensible precaution. A precaution is something that prevents trouble in the future. A lawyer must anticipate the pitfalls that his or her client might experience in the future and try to protect the client from such problems when drafting the contract. A pitfall is a problem that is very likely to happen in the future in connection with a particular activity. For example, getting injured is a pitfall of playing football. A retention of title clause protects a seller from the pitfall of a buyer who does not pay. The clause says that the seller retains title to the goods until the seller receives full payment. In our example the seller continues to own the leather even after the buyer uses it to make chairs.

a	To have property in goods and to have title to goods mean the same thing.	**True**	**False**
b	The correct heading that lawyers use in a contract is a retain of title clause.	**True**	**False**
c	Retain means 'keep'.	**True**	**False**
d	A precaution and a pitfall are the same thing.	**True**	**False**
e	A retention of title clause in a contract is to protect the seller from a buyer who does not pay.	**True**	**False**
f	After the seller delivers goods to the buyer, the seller can remain the owner of the goods according to a retention of title clause.	**True**	**False**

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Exercise 2

Complete these sentences with a preposition from the box below.

● **within** ● **to** ● **from** ● **of** ● **until**

a A retention of title clause deals with when ownership of goods passes _____ the seller to the buyer.

b The seller will retain title _____ the goods until the buyer makes payment in full.

c The seller will retain ownership _____ the goods until the buyer makes payment in full.

d The buyer must pay the seller for the goods _____ 30 days of receiving those goods.

e A retention of title clause often states that the seller continues to own the goods _____ he or she receives payment.

WARRANTY, INDEMNITY AND FORCE MAJEURE CLAUSES

Exercise 1

Read this text about warranty, indemnity and force majeure clauses. Complete the text by filling each gap with the correct preposition from the box below.

● **from** ● **under** ● **for** ● **in** ● **on**

You will see clauses dealing with warranty, indemnity and force majeure in most commercial contracts.

A warranty is a guarantee that one party gives to the other. It is a statement of fact. In a contract (**a**) _____ the hire of an industrial machine, the hirer will warrant to the owner that he will return the machine (**b**) _____ the same condition and (**c**) _____ the date stated in the contract.

An indemnity is a promise that one party makes to the other. It is a promise by one party to compensate the other if there is a loss that 'arises from' the contract. Arises from means comes from. The process of indemnity is sometimes called 'covering' someone against a loss. In the example above, one party hires a machine (**d**) _____ the other and warrants that he will return it in the same condition. What happens if he does not do that? The indemnity clause states that the hirer must compensate the owner for his loss. An indemnity clause usually requires the party who gives the indemnity to buy a policy of insurance to make sure that he or she can keep his promise to pay. The contract will say that the hirer must 'take out' a policy of insurance. Take out means buy. In the USA an indemnity clause is sometimes called an indemnification clause.

A force majeure is something that happens that stops one of the parties from fulfilling his or her contractual obligations. It might be a problem with very bad weather, or something like a terrorist attack. A force majeure clause protects the parties from these unexpected circumstances. It describes the force majeure as an 'unforeseeable' event. Unforeseeable means that the parties did not and could not imagine that such a thing could happen. This clause states (**e**) _____ what unexpected circumstances the parties are free from fulfilling a contractual obligation. In the above example, the hirer of the machine promises to return it on a certain date. What happens if there is a serious fire at the owner's premises? The police will not allow the hirer to enter the premises. The hirer will not be in breach of contract because the force majeure clause will protect him.

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Exercise 2

Jumbled words. Look at the definitions below. Some of the words from the text above are mixed up. Put the letters in the correct order to spell the words and complete the definitions. The first letter of each word is there for you.

Example: A clause in which one party makes certain guarantees to the other party.
W_____ (**ARRTYNAW**)

a A clause in which one party says that he or she will compensate the other party for certain losses that may happen as a result of entering into the contract.

I_____ (**DEMINYTIN**)

b A phrase that means 'comes from' or 'as a result of' something.

A_____ F_____ (**RIASES**) (**ROMF**)

c A word that means to pay someone money so that they do not suffer the effects of a loss.

C_____ (**PENTASMOCE**)

d A phrase that means to buy something, especially insurance.

T_____ O_____ (**AKET**) (**TUO**)

e The formal name for an insurance document.

P_____ (**LICYPO**)

f The word that American lawyers sometimes use instead of indemnity.

I_____ (**MNIEDINCATIFONI**)

g An international term that describes an event that stops a party from fulfilling a contractual obligation.

F_____ M_____ (**ORECF**) (**JEUREAM**)

h A word that means 'could not be imagined in advance'.

U_____ (**FOREUNABSEEEL**)

Exercise 3

Put a word or phrase from Exercise 2 into these sentences.

a In the _____ clause of this contract the hirer guarantees that he or she will comply with the terms and conditions it contains.

b The _____ clause requires your client to cover any loss that my client suffers as a result of entering into this contract.

c Your client agrees to _____ my client for any financial loss that he suffers as a result of entering into this contract.

continued

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d It is necessary to _____ insurance when you enter into this contract. This means the other party knows that you have the money to compensate him for any loss that he suffers.

e Do you have a _____ of insurance? It is an important document and you should keep it in a safe place.

f When a loss _____ a breach of the terms of a contract, the indemnity clause usually covers the injured party against that loss.

g Our New York office has sent us a contract that uses the clause heading _____ instead of indemnity.

h Events that are usually classified as a _____ include war, revolution, and terrorism.

i The terrible storm on 10 July was an _____ event and therefore can be classified as a force majeure.

MORE ABOUT FORCE MAJEURE CLAUSES

Exercise 1

Read this information about force majeure clauses. The most important words are in the key vocabulary below. Complete the sentences that follow by matching the first half of each sentence with the correct ending.

Key vocabulary

- **excused**
- **force majeure**
- **supervening**
- **unforeseeable**
- **Act of God**
- **relies on**

It is usual for a contract to contain a clause that tells the parties under what circumstances they will be **excused** from fulfilling a contractual obligation. Excused means the party is free of the obligation. The obligation no longer exists. However, the circumstances under which this can happen are very limited. A party can usually be free of a contractual obligation only because something unusual happens that stops him or her from fulfilling the obligation. The clause in a contract that mentions the ways in which this cancellation of an obligation can happen is called the **force majeure** clause.

Let's say that one party to a contract agreed to deliver goods by plane to the other party. However, on the delivery date agreed in the contract the delivery company's local air traffic controllers decided to have a strike, which continued for more than a month. It was impossible to deliver the goods on the agreed date because the airports were closed. Under circumstances like these, there is normally no breach of contract. This is because there is a **supervening** event that is preventing the contract from being carried out. A supervening event is something that is unexpected. It stops or interrupts an event or situation.

The force majeure clause states that if a supervening event happens that is completely out of the control of the contracting parties, such as a strike, then the party who is unable to fulfil his or her obligations will not be liable under the contract. Lawyers describe an event like this is as '**unforeseeable**'. In other words, neither party could have predicted or imagined it. Other force majeures include things like computer failure, war, revolution, earthquake or fire. Lawyers sometimes refer to a force majeure, especially an event that is not connected to human activity, as an '**Act of God**'. Fire, hurricane, flood or earthquakes can each be described as an Act of God. When a party wants to use a force majeure clause to avoid being in breach of contract, we say that he or she '**relies on**' the force majeure clause.

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a To be excused from fulfilling an obligation means...	...an event that interrupts the performance of a contract. (1)
b A force majeure clause is...	...a situation where many people stop working, usually because they have a dispute with their employer. (2)
c A supervening event is...	...the parties could not predict when they signed the contract. (3)
d An event that is unforeseeable is something that...	...that you are no longer responsible for fulfilling that obligation. (4)
e An Act of God is...	...a type of force majeure such as a natural disaster. (5)
f To rely on a clause means...	...to use or depend on that particular contract clause. (6)
g A strike is...	...a clause in a contract that states that neither of the parties will be in breach of contract if certain things happen. (7)

Exercise 2

Here are some lawyers speaking on behalf of their clients. Each lawyer mentions a force majeure clause. Complete what each lawyer says by filling the gap with a word from the key vocabulary in Exercise 1.

a 'My client is not in breach of contract. Under certain circumstances a contracting party is _____ from fulfilling his obligations. This means he is free of the obligation. My client is free of his obligation due to a force majeure.'

b 'My client agreed to provide his hotel garden for your wedding. I am sorry that you were unable to have the ceremony there after all. However, the storm that happened on 15 July was completely _____. Even the government's weather office did not predict such a terrible event!'

c 'My client contracted with you to keep your goods in his warehouse. There was a gas explosion at the warehouse last week, before you delivered your goods. The warehouse was destroyed. This is clearly what a lawyer calls a _____ event. My client is not in breach of contract.'

d 'My client contracted to deliver goods to you by lorry. There was a flood that blocked all of the roads in your town and the lorry could not get there. We are not in breach of contract. He will _____ the force majeure clause in the contract if you try to sue him.'

e 'My client is a travel agent. You booked a holiday on a Caribbean island with his company. There was a hurricane that damaged all of the hotels on the island. Your holiday is cancelled. My client is not in breach of contract as this is the type of natural disaster that we describe as an _____.'

f 'My client owns a nightclub. You booked the nightclub so that you could have a party to celebrate your birthday. There was a fire at the club last night. Please look at your contract with my client. You will see that there is a _____ clause that covers situations such as this.'

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Exercise 3

Here is a simple example of a force majeure clause. Complete the clause by filling the gaps in the text with a word from the box below.

- **notify**
- **control**
- **delay**
- **breach**

5. FORCE MAJEURE

5.1 For the purpose of this Agreement 'Force Majeure' means an event outside the reasonable (**a**) _____ of a party affecting his or her obligations under this Agreement.

5.2 If either party is affected by a Force Majeure he or she must immediately (**b**) _____ the other party in writing.

5.3 A Force Majeure does not entitle either party to terminate this Agreement and neither party shall be in (**c**) _____ of this Agreement by reason of any (**d**) _____ in performance or non-performance of any of its obligations due to Force Majeure.

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UNIT 10A VOCABULARY CHECK

These are the important words that you have studied in Unit 10A. You should make sure that you know these words before you go on to Unit 10B.

Act of God
arises
assets
assign
assignee
assignor
author

budget

cease
commission
compensate
confidential
copyright
creative work
creditor

disclose

encumbrance
exceed
excused
expiration

force majeure
freelance

grant

indemnity
indemnification
infringe
infringement
insolvent
instalments
intellectual property rights
invoice

licence
licensee
licensor
liquidation
liquidator

material breach
merchandise
minor breach

non-disclosure
notice

owe

perishable
pitfall
policy
precaution
premises
public domain

rely on
retailer
retain
retention

serial number
store
supervening

take out
term
termination
title
trading

unforeseeable

warehouse
warranty

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TOLES FOUNDATION EXAM PRACTICE

Exercise 1

Read the following pairs of sentences. For each pair of sentences there are two possibilities, A or B. Decide which sentence uses the correct preposition. Write your answers in the box below. There is an example at the beginning (*).

Example

(*) (A) To pay for something in instalments means to make several regular payments.

(B) To pay for something to instalments means to make several regular payments.

1 (A) A termination clause informs the parties of the circumstances under which a contract can end.

(B) A termination clause informs the parties of the circumstances at which a contract can end.

2 (A) The Seller retains title in the Goods until the Buyer pays for full.

(B) The Seller retains title in the Goods until the Buyer pays in full.

3 (A) A force majeure prevented my client to fulfilling his obligations.

(B) A force majeure prevented my client from fulfilling his obligations.

4 (A) Copyright in the design belongs to the artist.

(B) Copyright for the design belongs to the artist.

5 (A) The Hirer agrees to comply with the terms and conditions of this Agreement.

(B) The Hirer agrees to comply to the terms and conditions of this Agreement.

(*) A	(1)	(2)	(3)	(4)	(5)

Exercise 2

Look at this list of words. They are all verbs. Put the correct word into the following sentences. Write your answers in the boxes numbered 1–10 below. There is an example at the beginning (*).

(AA) give	**(C) indemnify**	**(F) keep**	**(I) infringe**
(A) store	**(D) assign**	**(G) draft**	**(J) owe**
(B) disclose	**(E) grant**	**(H) commit**	

Example: (*) If a party wishes to terminate the contract he or she must (*) _____ four weeks' notice in writing.

1 I (1) _____ money to two people. I must pay Mary £20 and I must pay Andrea £10.

2 This information is confidential and you must not (2) _____ it to anyone.

3 Please (3) _____ this information strictly confidential.

4 When I (4) _____ a breach of contract it means that I do not fulfil my obligations under that contract.

5 I (5) _____ my goods in a warehouse in Manchester.

6 I agree to (6) _____ a licence to your client to use my design on his merchandise for a period of one year.

7 To use someone's artwork without his or her permission is to (7) _____ that person's copyright.

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8 I will (8) _____ a new termination clause for my client's contract as he is not satisfied with the current clause.

9 The author agreed to (9) _____ her intellectual property rights to the publishing company, so the author no longer has legal ownership of those rights.

10 When I (10) _____ someone against a loss it means that I promise to compensate him or her for that loss.

(*) AA	(1)	(2)	(3)	(4)	(5)
	(6)	(7)	(8)	(9)	(10)

Exercise 3

Read the text below. It is from a contract. Some of the words in the text are underlined. The meanings of these words appear in the list below, but they are not in the same order. Match the underlined words in the text with the correct meanings by writing the letters (A, B, C, etc). in the list below. There is an example at the beginning (*).

FROM A TERMINATION CLAUSE

1 This (AA) Agreement shall (A) commence on the 25 June 20XX and shall continue for a (B) term of one calendar year.

2 Each party to this Agreement may at his or her own discretion and without being required to pay (C) compensation (D) terminate the Agreement by (E) serving two months' written notice in advance.

3 Each party to this Agreement may by giving written notice to the other party terminate the Agreement immediately as follows:

3.1 If the other party has committed a (F) material (G) breach of this Agreement

3.2 If the other party goes into (H) voluntary or compulsory liquidation

3.3 If the other party is insolvent or unable to pay his or her (I) debts when they become due

3.4 If a receiver is appointed over the whole or any part of the (J) assets of the other party.

(*) AA	contract
	sending a document in the correct, formal way
	money to pay someone for a loss
	amounts of money that a person owes to other people
	serious, significant
	start
	violation
	duration, the period of time for which a contract is valid
	intentional, something that a person chooses to do
	end
	property, including money and equipment

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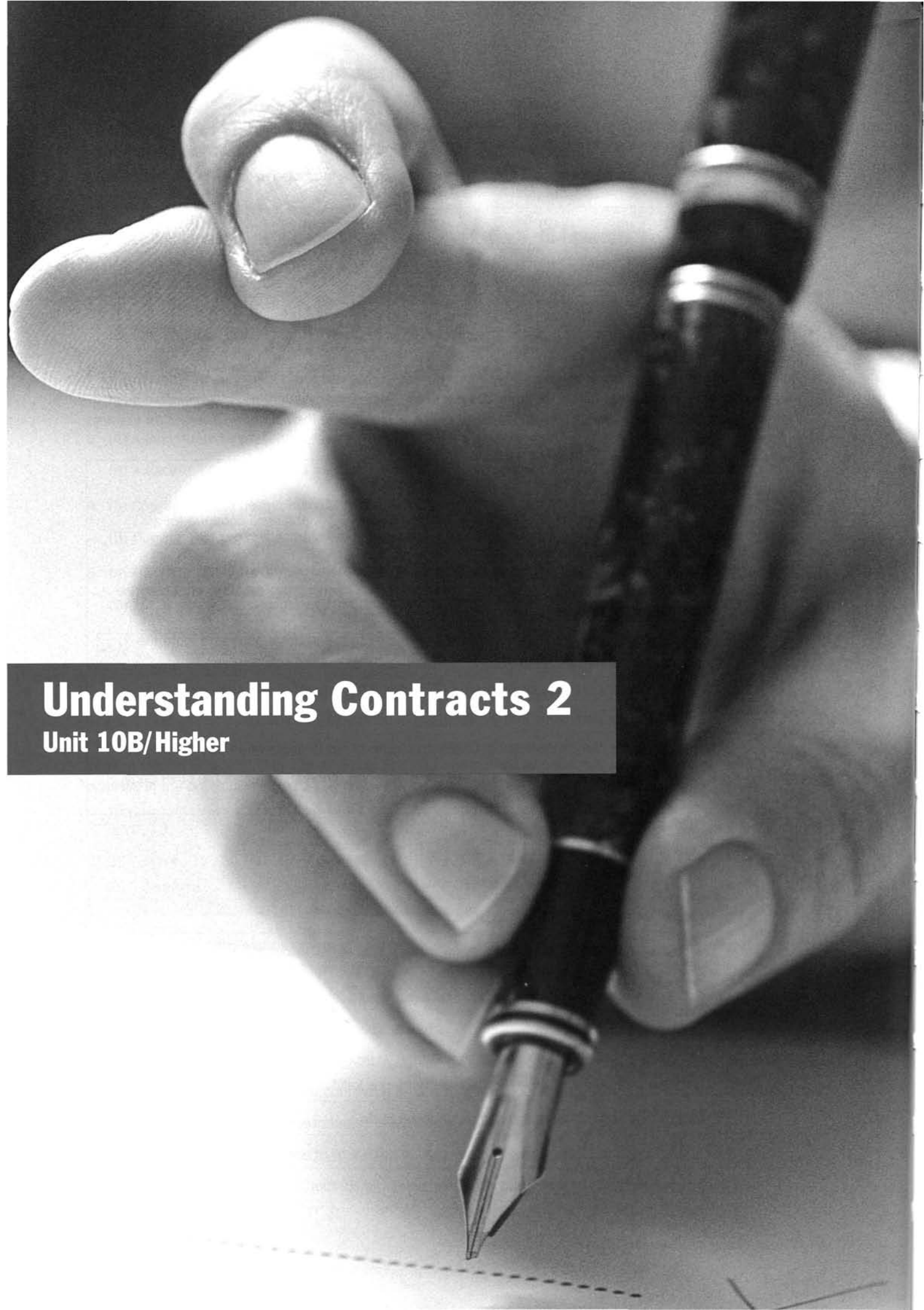

Understanding Contracts 2

Unit 10B/Higher

UNDERSTANDING CONTRACTS 2

RISK AND TITLE

You need to know about...

Risk

In a contract for the sale of goods, the parties usually agree which of them will carry the risk of the goods being lost or damaged before delivery. In other words, which of the parties has liability in this situation. It is important to be sure who has liability because this can affect what insurance each party needs to take out. Let's say, for example, that there is a contract between a book publishing company and a printing company. The contract states that the printing company will produce 10,000 copies of a book for the publishing company. The printing company also agrees to store the books in its warehouse until they are required. What happens if there is a fire in the warehouse? Whose responsibility is it to pay for the insurance of the books? Who takes the risk if there is any loss or damage at all before delivery?

Title

Title means ownership of the goods or products. Lawyers sometimes refer to having ownership of something as having 'title to' the products. Lawyers also refer to having ownership of something as having 'property in' the products. Title is important because when you are the buyer of products you need to be certain about when title passes from the seller to you. Perhaps as the buyer, you want to sell the products to a third party. At what point do you have the legal right to do so? If you are the seller, you might want to retain title until you have been paid. The clause in a contract that deals with title is often called a 'retention of title' or ROT clause. It is a clause that says ownership of the products remains with the seller until the buyer has paid for them.

Exercise 1

Read the following text about using a retention of title clause in a contract. Fill the gaps in the text with the correct word from the box below.

property	**particular**	**retains**	**protect**
debtor	**premises**	**sale**	**instalments**

In most contracts for the (**a**) _____ of goods or products it is a good idea to include a retention of title clause. This clause is intended to (**b**) _____ the seller from a buyer who does not pay for the goods, or only pays in part. The clause will state that the goods remain the (**c**) _____ of the seller until the buyer has actually paid for them. If the buyer does not pay for the goods he or she is a (**d**) _____, which is a person who owes money to someone. A retention of title clause will also usually give the seller the right to enter onto the debtor's (**e**) _____ and take back goods that have been delivered but not paid for. However, sometimes a particular difficulty arises in this situation. What happens if the debtor was paying for the goods in (**f**) _____? Let's say the debtor has paid half of the total price of the goods and insists that he or she therefore has a legal right to keep half of the goods? The answer for the seller is to include what is called an 'all monies' provision in the contract of sale. This is a provision which states that until a buyer has paid *everything* that he or she owes to the seller, then the seller (**g**) _____ ownership of *all* of his or her goods in the buyer's possession. This means that the seller can take back goods even in cases where the buyer claims that he or she has paid for those (**h**) _____ goods.

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Exercise 2

Here are some briefing notes published by a firm of solicitors. The firm publishes briefing notes to give advice to its commercial clients. These briefing notes aim to help clients to reach decisions about what they want to include in their contracts. Read the briefing notes and find the words in the notes to match the definitions that follow.

Hall & Co
Solicitors

Briefing notes for clients

Retention of Title Clauses

We are often asked, 'How can a seller of goods protect his or her business against a buyer that does not pay?'. One answer is to incorporate what is called 'a retention of title' clause, sometimes called a ROT clause, into your company's terms and conditions of sale. This is a clause in a contract that allows the seller to retain ownership of the goods until the goods are paid for. It is useful to know that you can include a clause that makes this the case even in situations where you have delivered the goods to the buyer. It means that you, the seller, can demand that goods are returned to you if the buyer does not pay. Another advantage? Many ROT clauses also give the seller the right to enter onto the buyer's premises to recover the goods if necessary.

In general, this type of clause sounds like a good thing. What could possibly be negative about including a clause like this in your terms and conditions if you are the seller of goods? You might think that nothing could possibly go wrong. Well, think again. There are several pitfalls to using a clause like this and you need to consider if a ROT clause is right for your business before going ahead.

- What is it that you sell? If you sell a perishable product such as bread do you *really* want to have it back if the invoice is not paid within 28 days? Remember, perishable products go off!
- When a buyer does not pay for goods, it is often because his or her business is insolvent. Are you prepared for a battle with the liquidator to get your goods returned or your money back?

For many businesses however, including a ROT clause in your contract is a sensible precaution to take. There are a few points to remember. They are:

- This type of clause must be expressly stated. Neither common law nor statute will imply a ROT clause if you do not include one in a contract.
- A ROT clause must be incorporated into a contract and not just written on an invoice. A court would take no notice of a ROT clause appearing on an invoice for the first time, as it would be considered to be a post-contractual term.
- Try to put an identifying mark on goods, such as a serial number. It will be important to be able to identify the goods when you want to recover them.
- A buyer might say that the goods have been mixed with another product to create a new item that cannot be returned. Recover goods quickly!

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a To include something as part of a design, a plan or a document.

The word is _____

b Problems that are likely to happen when you are taking part in a particular activity.

The word is _____

c A word used to describe goods that are likely to decay quite quickly, such as fruit or fish.

The word is _____

d A person who deals with the winding up of a company. His or her job is to make sure that the company's creditors are paid.

The word is _____

e Something that you take to prevent something dangerous or problematic from happening in the future.

The word is _____

f Clearly and unmistakably stated. In a contractual situation, it usually means written as opposed to spoken.

The word is _____

Exercise 3

Read the briefing notes again and answer the following questions using a full sentence.

a What is a retention of title clause?

_____

b What additional right does a retention of title clause often give the seller of goods to assist him or her in recovering any unpaid goods that are on the buyer's premises?

_____

c If a buyer has not paid for goods what do the briefing notes say is often the reason for it?

_____

d What is the pitfall of including a retention of title clause in a contract if you are the seller of perishable goods?

_____

e Does statute assist a seller who has not included a retention of title clause in a contract for the sale of goods?

_____

f If a seller wrote a retention of title clause on an invoice how would a court describe the clause?

_____

g How do the briefing notes suggest that a seller makes his or her goods easily identifiable?

_____

h The briefing notes suggest that if any goods are not paid for then the seller should get those goods back very quickly. What is the reason for this?

_____

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Collocation bank

- to **carry** a risk
- to **take out** insurance
- to **retain** title in goods
- to **recover** goods
- a **sensible** precaution
- to **take** a precaution
- **clearly** stated
- to **enter onto** someone's premises

Preposition bank

- to pay **for** goods
  'She paid **for** the goods with her credit card.'
- to pay **in/by** instalments
  'The seller agreed to allow the buyer to pay for the goods **in** instalments.'
- to protect **against** non-payment
  'There are several things that a seller can do to protect himself **against** non-payment.'
- to incorporate a clause **into** a contract
  'It is a good idea to incorporate a retention of title clause **into** a contract.'
- to mix one product **with** another
  'We cannot recover the glue that we sold them as it has been mixed **with** other products in the manufacture of furniture.'

Exercise 4

The clause below deals with both risk and title. The clause is from a contract between a printing company and a publishing company. In this case the goods mentioned in the contract are books. Decide whether the statements that follow the clause are true or false.

> The property and risk in the Goods shall pass from the Seller to the Buyer upon Delivery. Where all or part of the Goods are retained by the Seller but the Buyer has paid the agreed price, the property in such Goods shall pass to the Buyer upon payment but the risk in such Goods shall remain with the Seller until Delivery takes place.

a	When books that the buyer has paid for are delivered to the buyer, he or she then becomes the legal owner of those books.	**True**	**False**
b	If books that the buyer has not paid for yet are mistakenly delivered to the buyer, the risk for those books stays with the seller.	**True**	**False**
c	If the buyer has paid for books but the books are kept at the seller's warehouse until they are needed, then the buyer has the risk.	**True**	**False**

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Exercise 5

Look at the following clause. Complete the clause with the prepositions from the blue box.

Property (**a**) _____ the Goods shall not pass (**b**) _____ the Buyer (**c**) _____ payment is made by the Buyer to the Company (**d**) _____ the agreed price.

- **of**
- **in**
- **until**
- **to**

Exercise 6

Look at the following clause. Complete the clause with the prepositions from the blue box.

Property in the Goods remains (**a**) _____ the Company (**b**) _____ all times in the case of a hire agreement and until payment is made (**c**) _____ full in the case of sale (**d**) _____ the Goods.

- **at**
- **of**
- **with**
- **in**

Exercise 7

Look at the following clause. Complete the clause with the prepositions from the blue box.

The Company guarantees that it has the authority to transfer title and that title (**a**) _____ the Goods when transferred to the Buyer is lawful. The Goods are free (**b**) _____ any security except as otherwise agreed (**c**) _____ the parties (**d**) _____ writing.

- **by**
- **to**
- **in**
- **from**

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Exercise 8

Look at this example of a retention of title clause. It is a typical 'all monies' clause as mentioned in Exercise 1. Fill each gap in the clause with the correct word from the blue box.

(**a**) _____ delivery and the passing of risk in the Goods or any other (**b**) _____ of this agreement (**c**) _____ to the Goods shall not pass to the Buyer until the Seller has received the full (**d**) _____ of the Goods and all other goods sold or agreed to be sold by the Seller to the Buyer for which payment is (**e**) _____.

- **price**
- **provision**
- **title**
- **due**
- **Notwithstanding**

INTELLECTUAL PROPERTY AND CONFIDENTIAL INFORMATION

You need to know about...

Intellectual property

If a contract is for the sale of goods there is often no need to be concerned with the seller's intellectual property rights (IP rights). However, in a contract where one party is providing a service to the other, then protection of IP rights can be very important. Let's say that a designer is commissioned by a record company to design a cover for a new music CD. The CD sells millions of copies and the record company then wants to use the cover design on merchandise such as T-shirts. Who owns the design? Is it the designer or is it the record company? It is important that the contract between the two parties makes this clear.

Confidential information

Confidentiality protects information not capable of IP protection. This includes commercial information, trade secrets and processes used by a business in its everyday operations. This type of information is sometimes referred to as 'know-how'. This information can be very valuable indeed in the hands of a rival organisation. The business needs to include a confidentiality clause, sometimes called a non-disclosure clause, in all of its employees' contracts. This would prevent any employee from, for example, giving information from the database of clients to any third party.

Sometimes it is not always obvious to a business how valuable its intellectual property or confidential information might be. Many law firms now offer the service of carrying out what is called an 'IP audit' for companies. The law firm will identify what intellectual property and confidential information a business has and give advice on how to protect it.

Exercise 1

Look at the following two clauses. They are from a contract between a company that needs a website and a website designer. Decide which clause is the non-disclosure clause and which is the intellectual property clause.

a The Designer acknowledges that copyright and any other rights of any nature that may currently exist or be created in the future in respect of any aspect of the Website and any associated material in connection with which the Designer is providing her services shall belong absolutely to the Company.

This is the _____ clause.

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b Where the Designer is approaching third parties for contributions or assistance in respect of the Website then the information to be divulged shall be kept to a minimum and a representative of the Company shall attend all such meetings with the Designer.

This is the _____ clause.

Exercise 2

Look at the two clauses in Exercise 1 again. Decide if the following statements are true or false.

a	The Designer is completely forbidden to give any information at all about the Company to any third party.	**True**	**False**
b	The Designer agrees to transfer copyright in the Website to the Company.	**True**	**False**
c	If the Designer needs to have a meeting with another designer to get help or advice then the Company has the right to send someone from the Company with her.	**True**	**False**
d	If any new IP rights develop in connection with the Website in the future, those rights will belong to the Designer.	**True**	**False**

Exercise 3

*Read the text below. It is from a seminar for students studying law at the University of Chatsworth. The seminar is about a dispute between two parties to a contract for services. The dispute happened because the parties **did not** include a clause in the agreement about ownership of intellectual property rights. Complete the text with the prepositions from the box below.*

with	**for**	**onto**	**from**	**to**
of	**as**	**in**	**at**	**between**

Lydia Barlow works (**a**) _____ a self-employed graphic designer here in Chatsworth. Her speciality is the design of marketing material for new companies. Niall King has just started a new business. Niall's business is a travel company aimed (**b**) _____ people aged 21 to 25 who wish to travel in the free time they have between finishing university and starting work. The name of Niall's business is Pure Adventure Travel Ltd.

Niall meets Lydia to plan a brochure to advertise his travel company. He wants her to design a colour brochure (**c**) _____ 40 pages. He tells Lydia that his budget for the design is £12,000. They sign a contract for services. Niall provided the contract. A month later Lydia provides Niall with the brochure and an invoice (**d**) _____ £12,000. Niall is delighted and pays Lydia the £12,000 immediately.

continued

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Six months later, Niall puts some of the text and pictures from the brochure (**e**) _____ his website. Lydia sees the website and contacts Niall. She says that she did not give permission for her work to be used in this way and she requires additional payment. Now the two parties (**f**) _____ the agreement are (**g**) _____ dispute. How could this dispute have been avoided?

If you are the buyer of work that is creative in nature you need to make sure that you have the right to use any intellectual property connected with the work. There are two ways to do this:

- make sure that the supplier transfers ownership (**h**) _____ the intellectual property to you at the time of payment. This is often called an assignment of rights
- if there is no assignment, make sure that the supplier gives you permission to use the intellectual property. This is usually known as a licence. When you have a licence to use something you are known as the licensee.

What is the difference (**i**) _____ an assignment of IP rights and a licence to use the intellectual property? The assignment of IP rights *means the absolute transfer of those rights in* return for payment. The owner of the IP rights usually has to guarantee to the buyer, known as the assignee, that the rights are sold free of any encumbrance. An encumbrance is a third party interest in the rights and might mean that the rights do not belong solely to the seller. The right to start legal proceedings for infringement of intellectual property rights belongs to the assignee.

Licensing can be more advantageous to the supplier. He or she continues to own the intellectual property but makes money (**j**) _____ allowing others to use it, subject to certain restrictions. A good checklist when granting a licence is:

- Is the licence limited to a particular territory?
- Is the licence exclusive or non-exclusive?
- How long will the licence last?
- How much and when does the licensee have to pay?
- What other restrictions are there on the use of the material?

The best option in the case above would have been for Niall to have included a clause in his contract with Lydia under which she assigned all of the intellectual property rights in the design work to him to use in any way that he wished.

Collocation bank

- to **provide** a service
- a **rival** organisation
- to be **free** from any encumbrance
- to **transfer** ownership

Preposition bank

- to be contracted **by** someone to do something

  'I have been contracted **by** the City of London environment department to remove graffiti from this area.'

- **in** the hands **of** a rival organisation

  'I am sure that our client list is **in** the hands **of** our greatest competitor.'

- to have copyright/IP rights **in** something

  'The Beatles have sold copyright **in** much of their music.'

- **at** the time of payment

  'Ownership transfers to the buyer **at** the time of payment.'

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Exercise 4

Read the text in Exercise 3 about the dispute between Lydia Barlow and Niall King again. Answer the following questions by matching them with the correct answers from the list below.

What is Lydia Barlow's job? (1)

What is the name of Niall King's new business? (2)

What is Niall King's budget for producing his new brochure? (3)

What does Lydia Barlow require if Niall King wants to use her design work on his website? (4)

What is the name of the process by which a supplier such as Lydia transfers ownership of IP rights to the buyer at the time of payment? (5)

What is the name of the permission that a supplier such as Lydia may give to use the IP rights, even though there is no transfer of ownership? (6)

What is a licensee? (7)

Can an assignee sue for infringement of IP rights? (8)

What question does the licence checklist ask about the term of a licence? (9)

What would have been the best option for Niall King? (10)

a Pure Adventure Travel Ltd.

b A licence to use intellectual property.

c Yes.

d To have included a clause in the agreement that assigned him all of the intellectual property rights in the brochure.

e An assignment of rights.

f It asks how long it will last.

g She wants more money.

h She's a self-employed graphic designer.

i A person who has permission to use intellectual property, even though he or she is not the owner.

j £12,000.

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Exercise 5

Let's say that Lydia Barlow and Niall King included the following clause in the contract between them. Read the clause, and using information that you already have about the situation between the parties, answer the questions below using a full sentence.

> In consideration of the fee specified in Schedule A hereto the Supplier assigns to the Company all present and future copyright in the Product for use in the media throughout the world including, but not limited to advertisements, newspaper and magazine articles, DVDs, website and Internet related material and marketing material in any form.

a Who is the supplier referred to in this clause?

_____

b What is the name of the company referred to in this clause?

_____

c Where must I look to find out how much money the company will pay to the supplier for producing the brochure?

_____

d Does the clause give the company full ownership of the copyright material or just temporary use of the material?

_____

e Which particular word in the clause helped you to answer question (d)?

_____

f Is the company limited to using the copyright material in the places listed in this clause?

_____

g Which phrase in the clause helped you to answer question (f)?

_____

h If the company wants to use the copyright material in an advertisement on the side of a train, does this clause permit it?

_____

Exercise 6

In order to protect his confidential information, Niall King could also have included a clause like the one on the opposite page in his contract with Lydia Barlow. Complete the clause with the words from the blue box below.

third **expiration** **disclose** **limited** **whatsoever**

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The Supplier agrees that she shall not (**a**) _____ to any (**b**) _____ party any confidential information (**c**) _____ acquired during the existence of this Agreement including, but not (**d**) _____ to:

- the current or future business plans of the Company
- data
- marketing strategies
- financial information

from the date of this Agreement and for a period of one year following its (**e**) _____.

WARRANTIES AND INDEMNITIES

You need to know about...

Warranties

A contractual warranty is a promise or a guarantee contained in a contract. There are different types of warranty depending on what type of contract you are looking at. In a contract for the supply of goods or services for example, a warranty usually takes the form of a promise that the goods or services will be of a certain standard. A lawyer might say that the seller 'warrants' the quality of the goods to the buyer. Some warranties do not need to be written. They are presumed to exist or more correctly they are 'implied'. This is especially true of warranties in contracts between companies and consumers. For example, in the UK, a statute called The Sale of Goods Act (1979) implies warranties about the quality of goods that are sold to consumers. In many commercial contracts between companies however, the warranties are clearly and expressly stated.

Indemnities

An indemnity clause in a contract, sometimes called an indemnification clause in the USA, takes this process of guarantee one step further. It is a promise by one party to the contract to compensate the other party if certain losses occur. This compensation could be for a breach of warranty but it could be for some other kind of loss. Let's take, for example, a contractual situation where a consultant works for a short time with a company to help the company with its marketing plan. The consultant then breaches his contract with the company by disclosing confidential information to a third party and the company suffers a loss as a result. The company will usually be protected by an indemnity clause. The clause will state that the consultant 'indemnifies' the company against any loss or damage arising from this type of breach. Indemnity usually covers loss arising from any 'act, omission or neglect'. Many professionals take out insurance in case a claim is made against them under an indemnity clause.

Exercise 1

Look at the following two contract clauses. They are from a contract between a publishing company and a book illustrator. Read both clauses and decide which is the indemnity clause and which is the warranty. Complete each clause by choosing the correct words from the box to fill the gaps.

- **caused**
- **indemnifies**
- **warrants**
- **disclosed**

1 The Designer (**a**) _____ that the Illustrations provided under this contract are original and have not been (**b**) _____ to any other party and are not in the public domain.

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2 The Designer hereby (**c**)_____ the Publisher against any loss, injury, or damage arising from any breach by the Designer of any undertakings in this Agreement, howsoever (**d**) _____.

Collocation bank

- an **implied** term
- to **imply** a warranty
- to **disclose** information
- to **suffer** a loss
- an **expressly** stated contract term

Preposition bank

- to be **of** a certain standard
  'These goods are not **of** the expected standard.'
- a warranty made **by** one party to the other party
  'This contract contains a warranty made **by** the seller to the buyer.'
- loss arising **from** a breach
  'I am indemnified against any loss arising **from** a breach of contract.'
- to indemnify someone **against** loss or damage
  'The consultant agreed to indemnify the company **against** any loss or damage.'

Exercise 2

Louisa Capaldi works as an illustrator of children's books. She is self-employed, describing herself as 'a freelance illustrator', and enters into contracts with publishing companies several times a year. She is a member of an organisation called 'The Society of Illustrators' and often visits the Society's website for the latest news and advice. She has just found this article on the website. It is about the need for illustrators to be careful when entering into contracts.

Read the article from the website below and answer the questions that follow.

www.TSOI.co.uk/legal/contracts

Beware of warranties and indemnities!

by Corinne Birch

London-based member of the Society, and former lawyer Corinne Birch writes about the dangers hidden in your innocent-looking contract.

Illustrators beware! The days of casual agreements between illustrators and publishers are gone. These days any publisher who commissions you to provide illustrations for a book or a magazine will probably ask you to sign a written contract. In that contract you will be defined as 'the Illustrator' or maybe by a more formal name, such as 'the Supplier'. The person who has asked you to provide an illustration for a book or some other publication will usually be referred to in a contract as 'the Commissioner'.

As well as dealing with the question of who owns the copyright in your work, the contract is very likely to contain what the

continued

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lawyers call 'warranties', and what is even more worrying, a promise of 'indemnity' to support not only those warranties, but also all of the other terms that you agree to under the contract. After one or two ruinous financial experiences for Society members as a result of indemnity clauses, I can only conclude that you should regard your commissioner's lawyer in the same way as Harry Potter regards Voldemort – an evil presence that can probably be defeated, but only with a great deal of care and attention!

A warranty is a promise from you that each illustration that you are providing comes free of any problems. Typical warranties that you will be asked to give as an illustrator include:

- that the illustration you are providing is not defamatory in any way
- that the illustration is your own work and is completely original
- that you, the illustrator, have the right to grant a licence or assignment to the commissioner.

If you receive a written contract from a publisher make sure that you read it carefully and are happy to agree to the warranties that it contains. Don't be afraid to amend a warranty or even ask for it to be struck out of the contract, which means deleted, if you are in any doubt.

The warranty clause is often followed by a section of the contract that requires even more thought before you agree to enter into the contract. This is the indemnity clause. This clause acts as a guarantee to the commissioner that any breach of the warranties that results in a financial loss to him or her will be paid for – by you! This means that if you provide an illustration to a publisher, and some third party decides to sue the publisher for breach of copyright, then the commissioner can come after you for any loss or damage that they might suffer and demand to be reimbursed.

There is, however, an important point to make about your liability under warranties or indemnities. A sensible commissioner will know that illustrators are not the richest people in the world and that getting the money from you to pay a third party under an indemnity clause may be time-consuming and difficult, perhaps even impossible! For this reason, most of them have liability insurance and may very well rely on that insurance if a claim is made against them by a third party.

The conclusion is, please read the warranties and make sure that you are happy to enter into them. If not, ask for them to be struck out of the contract. I'm afraid it's rarely possible to refuse to indemnify the commissioner. However, you can negotiate a little and try to 'soften' the indemnity clause in any way that you can. The best advice of all is to make sure that all of your illustrations are original and 100% yours to offer for sale, then you really can sleep at night without worry.

The blue links on this website that take the reader to more information on certain subjects are underlined. Which link should Louisa click on to read more about the following?

Example: Information about people who are not party to the contract but may take legal action.
Link: third party.

a Information about illustrators who have lost a lot of money.

Link: _____

b Information about who is the owner of the intellectual property in the illustrations.

Link: _____

c Information about making changes to clauses contained in contracts.

Link: _____

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d Information about giving someone permission to use your illustrations without giving that person ownership of the illustrations.

Link: _____

e Information about what is libellous.

Link: _____

f Information about transferring ownership of copyright completely to the commissioner.

Link: _____

g Information about certain guarantees that an illustrator may be required to give to the commissioner.

Link: _____

h Information about the promise an illustrator may be required to make regarding any financial loss the commissioner suffers as a result of a breach of contract.

Link: _____

Exercise 3

Read the article in Exercise 2 again and decide if the following statements are true or false.

a	Most illustrators are asked to sign a written contract.	**True**	**False**
b	Some illustrators who are members of the Society have lost money in the past as a result of indemnity clauses in their contracts.	**True**	**False**
c	If a warranty is 'struck out' of a contract it means that particular guarantee is deleted from the contract.	**True**	**False**
d	An illustrator will never have to pay for a commissioner's losses if the commissioner is sued by a third party.	**True**	**False**
e	Many commissioners have insurance against being sued by third parties because they know that illustrators may not be able to pay any damages that might be awarded.	**True**	**False**

Exercise 4

Here is a warranty given by an illustrator to a commissioner. Complete this warranty by choosing a word from the box below to fill each gap in the clause.

- **disclosed**
- **domain**
- **warrants**
- **further**
- **assigned**

The Illustrator (**a**) _____ to the Commissioner that the Illustrations provided are original and have not been (**b**) _____ to any third party except to the Commissioner and its advisers and employees. The Illustrator (**c**) _____ warrants that she has full rights in the Illustrations and that the Illustrations have not been previously (**d**) _____ or licensed in any form in any part of the world and are not now or ever have been in the public (**e**) _____.

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Exercise 5

Here is an indemnity given by an illustrator to a commissioner. Complete this indemnity clause by choosing a word from the box below to fill each gap in the clause.

- **costs**
- **party**
- **allegation**
- **indemnified**
- **injury**

The Illustrator agrees to indemnify and keep (**a**) _____ the Commissioner (and any other (**b**) _____ that the Commissioner shall in the normal operation of its business agree to indemnify) against loss, (**c**) _____ or damage, including legal (**d**) _____ in consequence of any breach of the warranties given herein or arising out of any claim regarding an (**e**) _____ of breach of copyright or defamation.

Exercise 6

Here is a warranty given by the author of a book to a publishing company. Complete the warranty by choosing a preposition from the box below to fill each gap in the clause.

- **in**
- **of**
- **to**
- **as**
- **under**

The Author hereby warrants that the Book is the Author's original work, has not been published before, and is not currently (**a**) _____ consideration for publication elsewhere. Further, that the Book contains no libellous or unlawful statements and that it (**b**) _____ no way infringes the rights (**c**) _____ others, and that the Author, (**d**) _____ the owner of the copyright, is entitled (**e**) _____ make this assignment.

Exercise 7

Here is an indemnity given by the author of a book to a publishing company. Complete the indemnity clause by choosing a preposition from the box below to fill each gap in the clause.

- **from**
- **as**
- **of**
- **by**
- **against**

The Author hereby agrees to indemnify the Publisher (**a**) _____ any loss or damage resulting (**b**) _____ any breach by the Author (**c**) _____ any warranty, undertaking or term in this Agreement and against any legal costs or damages incurred (**d**) _____ the Publisher (**e**) _____ a result of any breach by the Author under this Agreement.

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TERM AND TERMINATION

You need to know about...

Term

The term of a contract is the period of time for which the contract is valid. It means the same as the duration of the contract. The term of the contract is usually stated at the beginning of a written contract. However, it is also often mentioned again in the termination clause.

Termination

Almost all contracts contain a clause that specifies the circumstances under which a contract can be brought to an end before the agreed expiry date. This means that the agreed term of the contract will be shortened. Under what circumstances might a contract be terminated by one of the parties? The most common reasons are:

- Agreement. The parties agree that either of them can terminate the contract by giving an agreed period of notice to the other
- Breach of contract. One party can terminate the contract if the other party commits a material breach of one or more of the terms and conditions of the contract. However, it usually needs to be a *material* or significant breach for a court to allow the injured party to terminate rather than accept damages for the loss. The party in breach usually has an agreed period of time to remedy the breach before the injured party can insist upon termination
- Insolvency of a party. Most commercial contracts contain a provision in the termination clause that allows one party to terminate the contract if the other party becomes insolvent or goes into liquidation.

Exercise 1

A lawyer has been asked to explain the reasons why it is important to include a termination clause in a commercial contract. Here is his first reason. Read what he says and complete his explanation by filling the gaps with the words from the box below.

- **agree**
- **run**
- **enter**
- **giving**
- **states**
- **negotiate**

'It is absolutely essential to include a termination clause in a contract. There are several reasons for this.

The first reason is a very simple one. Let's imagine that you (**a**) _____ a retail business, such as a shop that sells luxury chocolate, in the centre of London. You (**b**) _____ into a contract with a supplier of chocolate in Belgium. The contract (**c**) _____ that the supplier in Belgium will deliver a certain quantity of goods to you every month. Both parties expect the contract to continue for a certain period of time before it has to be renegotiated and they (**d**) _____ upon the term of the contract as 12 months. What will you do if no one buys your chocolate and after three months your business is in trouble? You do not want to be obliged to go on with the contract for another nine months! Therefore, when you (**e**) _____ the terms and conditions of the contract it is essential to say that either party can terminate by (**f**) _____ notice to the other. A reasonable notice period in a situation such as this is probably four weeks.'

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Exercise 2

The same lawyer now gives his second reason as to why it is important to include a termination clause. Read what he says and answer the questions that follow using a full sentence.

'To move on to the second reason for including a termination clause, if you are a party to a contract you must always make sure that you can terminate it if the other party is in serious breach of his or her obligations to you. A court would refer to a serious breach as a 'material breach'. A breach of a less serious kind, a minor breach, will only give rise to a claim for damages, not termination. Most clauses of this type state that you have to give the other party a chance to solve the problem. In the legal profession we refer to this problem solving as 'providing a remedy for the breach'. If we imagine a situation where one party is in breach and has not remedied that breach then the injured party might seek to terminate the contract on those grounds. So, what constitutes a material breach? This is a complicated question. A court will examine the parties' intentions when they signed the contract, as well as the effects of the breach, in deciding whether or not it is material in nature. In general, however, a material breach must be very serious indeed. It must be a threat to the very purpose of the contract and not just an inconvenience.'

1 How does a court refer to a very serious or significant breach of contract?

Answer: _____

2 What is a minor breach?

Answer: _____

3 What right does a minor breach normally give rise to for the injured party?

Answer: _____

4 What is the correct legal name for the solution that the party in breach gives when he or she solves the problem caused by the breach?

Answer: _____

5 In order to be described as a material breach, what must the breach do with reference to the contract?

Answer: _____

Exercise 3

Here is the lawyer's final reason for including a termination clause in a contract. Complete his explanation by choosing a preposition from the box below to fill each gap in the text.

- **to**
- **of**
- **as**
- **in**
- **for**

'Finally, the third reason for including a termination clause in any commercial contract is the possibility that the other party may have financial troubles. Most contracts these days state (**a**) _____ the termination clause that if one party stops trading (**b**) _____ a business or even threatens to stop trading, then it will bring the contract (**c**) _____ an end. This is (**d**) _____ the protection of the other party. Other particular circumstances that are usually listed in a termination clause are one party being the subject (**e**) _____ dissolution, winding up, receivership or any other insolvency proceedings. All of these circumstances can bring a contract to a very sudden end.'

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Collocation bank

- the **term** of a contract
- the **expiry** date of a contract
- to **commit** a breach
- a **material** breach
- a **minor** breach
- to **remedy** a breach
- to **give** notice
- to **enter into/go into** liquidation

Preposition bank

- the circumstances **under/in** which something can happen
  'Under what circumstances can I terminate this contract?'
- to insist **upon/on** something
  'I insist upon a remedy for the breach within 30 days.'
- to be **in** breach **of** your obligations
  'The supplier is **in** breach **of** her obligations under this agreement.'
- to give rise **to** something
  'The other party's actions will give rise **to** an award of damages.'

Exercise 4

Here is a termination clause. It is contained in a contract between a customer and a company that makes hand-made furniture. Read the termination clause and find a word or phrase in the termination clause that matches the following definitions.

TERMINATION

Without prejudice to any other right or **remedy** available to the Company it shall be entitled to terminate the Contract between the Company and the Customer or **suspend** any further work **due** under the Contract between the Company and the Customer without any liability to the Customer, and in the event that work has been carried out but remains unpaid for, the price shall become due immediately **notwithstanding** any previous agreement to the contrary in the event of:

1 the Customer committing a breach of this Agreement provided the Company has notified him of the breach and in the case of that breach being capable of remedy, the breach has not been remedied within seven days of **receipt of** such notice

2 the Customer goes into liquidation or having a receiver appointed over any of its **assets** or becoming **subject to** an administration order or any other insolvency proceedings or, (being an individual or partnership) the Customer becomes apparently insolvent, bankrupt or the Customer makes any agreement with its **creditors** or **ceases** or threatens to cease to carry on business.

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a Things that a company owns that have a value.

The word is _____

b A phrase that means 'not having any effect upon something at a later date'.

The phrase is _____

c A solution for a breach of contract.

The word is _____

d Despite, in spite of.

The word is _____

e The people or organisations to which a person owes money.

The word is _____

f Receiving.

The word is _____

g To stop doing a particular activity for a period of time with the intention that you might or might not start the activity again later on.

The word is _____

h Stops.

The word is _____

i Owed.

The word is _____

j A phrase that means 'being the object of something.'

The phrase is _____

Exercise 5

Read the termination clause again and decide if the following statements are true or false.

a	If the company terminates this contract because the customer commits a breach of the agreement then the company cannot possibly claim any other remedy in future.	**True**	**False**
b	If the company terminates this contract because the customer commits a breach then the customer is obliged to pay immediately for any unpaid work that the company has done.	**True**	**False**
c	The customer has seven days to remedy any breach and the seven days start on the day the customer breaches the contract.	**True**	**False**
d	The company has the right to terminate the contract if the customer makes an agreement with the other people to whom the customer owes money.	**True**	**False**
e	If the customer says that he will *probably* wind up his business very soon, the company has the right to terminate the contract.	**True**	**False**

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FORCE MAJEURE

You need to know about...

English speaking lawyers use the French phrase 'force majeure,' because it is internationally understood. The translation into English would be 'greater force'. A force majeure is a very strong, external force or event that is outside the influence of the parties that prevents one of them from carrying out their obligations under the contract. The interpretation of the phrase according to English law goes a little further than this. Generally speaking, a force majeure is an unforeseen event that prevents one of the parties from carrying out his or her obligations, *which could not have been avoided by exercise of duty of care*. In other words, a force majeure clause will not necessarily protect one of the parties if he or she was negligent. A typical force majeure clause will cover:

- Natural disasters connected with weather, such as floods, earthquakes, or hurricanes. This type of event is often referred to as an 'Act of God'.
- Disasters connected with human activity such as war or revolution.
- Problems caused by the failure of a third party, such as a supplier, to fulfil their contractual obligations to one of the contracting parties. If, for example, I am based in London and I agree to supply gas to a major company in London, I now have a contract with that company. However, if my gas supplier in Russia goes out of business and does not provide me with the gas, I cannot fulfil my contractual obligations in London. I could perhaps rely on the force majeure clause in my contract with the London company to avoid action against me for breach of contract. Cases in the UK have established the principle that a contract suddenly becoming too expensive for one of the parties to carry out does not constitute a force majeure.

Exercise 1

In the box below is some of the vocabulary that you will often see in a force majeure clause. All of the events listed in the box can prevent one of the parties from carrying out their contractual obligations. Look at the events and decide what type of event they are.

rebellion	**acts of terrorism**	**electronic failure**
earthquake	**communications failure**	**civil war**
war	**sabotage**	**avalanche**
riot	**epidemic**	**criminal acts**
flood	**hijacking**	**arson**
civil unrest	**drought**	
mechanical failure	**strike**	

a Natural disasters/Acts of God

b Problems caused by modern technology

c Problems caused by human activity

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Exercise 2

Here is a typical force majeure clause. Complete the clause by choosing a preposition from the box below to fill each gap in the text.

- **from**
- **of**
- **to**
- **for**
- **under**

No party shall be liable (**a**) _____ any failure to perform its obligations (**b**) _____ this Agreement in the event that such failure results (**c**) _____ flood, earthquake or any Act (**d**) _____ God, riot, civil unrest, war or any other cause beyond a party's reasonable control, including electronic or communications failure but excluding failure due (**e**) _____ any breach of duty of care or a party's financial condition.

Exercise 3

Look at this force majeure clause. Complete the clause with the correct words from the box below.

- **terminate**
- **limited**
- **notice**
- **control**
- **performance**

In the event that this Agreement or any part of it can not be performed for any reason beyond the reasonable (**a**) _____ of the Company or the Supplier including but not (**b**) _____ to such events as Acts of God, war, strikes or civil disturbances, then such non-(**c**) _____ shall not be deemed a breach of this Agreement. In the event that the obligations under this Agreement cannot be fulfilled for any reason beyond the control of the defaulting party for a continuous period of three months then the other party is entitled to (**d**) _____ this Agreement at the end of that three-month period by giving (**e**) _____ in writing.

Collocation bank

- an **unforeseen** event
- to **rely on** a clause
- to **establish** a principle

Preposition bank

- to be **outside** someone's influence
  'The hurricane in the USA was an event **outside** the influence of the contracting parties.'
- to go **out** of business
  'My supplier went **out** of business a few weeks ago.'

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USING YOUR KNOWLEDGE

Collocation review

Complete these sentences with a collocation that you have seen.

a The Seller warrants that the property is sold _____ of any encumbrance.

b Contracts contain what are known as express terms that are clearly stated in the agreement but they may also have _____ terms, which a court will presume to exist even if they are not stated.

c It is possible for one of the parties to a contract to terminate on the grounds of breach but it must be a _____ breach and not a minor breach or an inconvenience.

d You are notified that you are in breach of contract and you have 14 days to _____ the breach. If you fail to do so we will terminate our contract with you without further notice.

e The Seller will _____ title to the goods until the full price of the goods has been received by the Seller.

f The service that you _____ to us under this agreement was not satisfactory.

g This is confidential information and you must not _____ it to any third party.

h It is always a good idea to _____ insurance in case a claim is made against you under an indemnity clause. If you had to find the money from your own pocket it could ruin you financially.

i The _____ of this contract is defined as two years.

j We intend to _____ upon the force majeure clause of this contract and we deny that we are in breach of our obligations.

Vocabulary review

Complete these sentences with a word that you have seen.

a A _____ of title clause often gives the seller the right to enter onto the buyer's premises to recover goods that have not been paid for.

b To _____ goods or intellectual property rights to someone is to transfer ownership to that person completely.

c The Author _____ that the Article is her own original work and that no third party has any right in the Article whatsoever.

d An Intellectual Property _____ is a service that many law firms offer to their clients. The law firm will check to see what valuable intellectual property a business has and give advice on how to protect it.

e If you have _____ in goods it means that you are the owner of those goods.

f An 'all _____' provision in a contract of sale protects the seller. It means that ownership of the goods does not pass to the buyer until the buyer has paid everything that he or she owes under the contract.

g In the USA an indemnity clause is often referred to as an _____ clause.

h If there is a warranty in a contract that you do not want to agree to, you can ask the other party to _____ it out of the contract.

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i A _____ clause in a contract states the circumstances in which a contract can be ended before the agreed expiry date.

j A _____ majeure clause in a contract deals with the circumstances in which the parties may be excused performance of their obligations due to some unforeseen event such as a fire or a flood.

Preposition review.

Complete these sentences with the correct preposition.

a The designer sent an invoice _____ £2000 to the company that had commissioned her work.

b When you are paying for design work you should always make sure that the designer transfers the intellectual property rights in the work to you _____ the time of payment.

c The Author hereby agrees to indemnify the Company _____ any loss or damage arising from any breach of the terms and conditions of this Agreement.

d A force majeure clause deals with events that are _____ the control of the contracting parties.

e Who is your new travel business aimed _____? Is it only for people under the age of 30?

f Please pay _____ the goods that you have received by 3 July.

g I have been commissioned _____ a fashion magazine to take some photographs for their next edition.

h Were the goods that you received last week _____ the standard that you expected?

i The author warrants that the article _____ no way infringes the intellectual property rights of any third party.

j If one party to a contract stops trading _____ a business, then the other party can usually terminate the contract immediately.

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TOLES HIGHER EXAM PRACTICE

Exercise 1

Read the contract clause below. The missing prepositions are in the list below. For each gap choose the preposition which best fits into the space from the options provided. Use each option only once. Write your answers in the box below. There is an example at the beginning (*).

FROM AN INDEMNITY CLAUSE

The Licensee agrees (*) _____ indemnify the Proprietor and shall be liable (1) _____ all losses, costs and expenses, including but not limited (2) _____ legal fees (3) _____ a full indemnity basis, arising (4) _____ any breach (5) _____ the Licensee of any of the warranties or agreements made hereunder.

(AA) to **(A) from** **(B) on** **(C) to** **(D) by** **(E) for**

(*) AA	(1)	(2)	(3)	(4)	(5)

Exercise 2

Read the following extract from a contract for the sale of goods. Some of the words or phrases are underlined. Explain the meaning of these underlined words or phrases. You can write one word in plain English or a short explanation. Write your answers below. There is an example at the beginning (*).

FROM CLAUSES DEALING WITH THE PURCHASE OF GOODS

The (*) property in the Seller's Products shall remain (1) solely and absolutely with the Seller until such time as the Buyer pays the full purchase price for all Products which the Buyer has contracted to purchase from the Seller. The Seller may, for the purpose of (2) recovery of its Products enter onto any premises where the Products are (3) stored and may repossess the Products.

The Seller (4) warrants that title to the Products when transferred to the Seller is valid and that the Products are transferred free of any security interest or (5) encumbrance except as agreed between the parties in writing.

(*) legal ownership of

(1)

(2)

(3)

(4)

(5)

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Answer Key

ANSWER KEY

UNIT 1A
THE LEGAL PROFESSION

WORKING IN LAW

Exercise 1 *(p9)*

a. Barrister
b. Attorney
c. Solicitor
d. Lawyer

Exercise 2 *(p9)*

a. True
b. True
c. False
d. True
e. False

MAKING A CLAIM IN THE CIVIL COURT

Exercise 1 *(p10)*

a. civil
b. civil
c. criminal
d. civil
e. criminal

Exercise 2 *(p11)*

a. True
b. False
c. True
d. True
e. False
f. False

Exercise 3 *(p12)*

a. (3)
b. (6)
c. (1)
d. (2)
e. (7)
f. (5)
g. (8)
h. (4)

Exercise 4 *(p12)*

a. issues
b. fee
c. serves
d. respond
e. hear
f. find
g. order
h. bailiff

AREAS OF LAW

Exercise 1 *(p13)*

a. Lawyers say to breach a duty of care.
b. In England and the USA the law of tort is an area of civil law.
c. A tort is a type of civil wrong.
d. The name of this tort is negligence.
e. Suing means starting proceedings against someone in a civil court.
f. The correct name for this money is damages.
g. The correct name for this arrangement is a no win-no fee arrangement.

Exercise 2 *(p14)*

a. suing
b. negligence
c. damages
d. allegations
e. grounds

Exercise 3 *(p14)*

a. Mary
b. Michael
c. Tom
d. Cory
e. Polly
f. Kaylelgh
g. Sunitta
h. David
i. Jennifer
j. Alistair

Exercise 4 *(p16)*

a. criminal law
b. merged
c. intellectual property law
d. drafting
e. the law of equity and trusts
f. based in
g. family law
h. goods
i. the law of tort
j. valid

Exercise 5 *(p16)*

a. insolvent
b. merger
c. tenant
d. Conveyancing
e. discriminate
f. Unfair dismissal
g. Sick pay
h. lease of land and buildings
i. formation of a business
j. partnership
k. Maternity leave
l. Capital
m. Redundancy
n. landlord
o. Real estate

Exercise 6 *(p17)*

Employment law
unfair dismissal
maternity leave
discriminate
sick pay
redundancy

Business law
formation of a business
capital
insolvent
partnership
merger

Land law
lease of land and buildings
landlord
tenant
conveyancing
real estate

Exercise 7 *(p18)*

a. maternity leave
b. unfair dismissal
c. sick pay
d. discriminate
e. redundancy

Exercise 8 *(p18)*

a. formation of a business
b. capital
c. insolvent
d. merger
e. partnership

Exercise 9 *(p18)*

a. tenant
b. conveyancing
c. lease
d. landlord
e. real estate

TOLES FOUNDATION EXAM PRACTICE

Exercise 1 *(p20)*

1. When a student finishes his or her legal studies he or she has to **make** a two-year training contract with a law firm.
2. The law of tort says that everyone must **to** be careful and not harm other people.
3. I will start my training contract with **the** Taylor Wallis in September.
4. If we issue a claim against you we will ask for **a** very high damages.
5. He breached the contract and I will **prosecute** him in the civil court.

Exercise 2 *(p20)*

1. False
2. True
3. False
4. True
5. True

Exercise 3 *(p21)*

1. *
2. c
3. a
4. d
5. f
6. h
7. b
8. g
9. e

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UNIT 1B
THE LEGAL PROFESSION

THE IMPORTANCE OF COLLOCATIONS

Exercise 1 *(p23)*

a. (A)
b. (B)
c. (A)
d. (D)
e. (C)

THE IMPORTANCE OF PREPOSITIONS

Exercise 1 *(p24)*

a. in
b. against
c. for/to
d. in
e. in
f. at

Exercise 2 *(p24)*

a. in
b. for
c. drafting
d. for
e. acting for/representing
f. breach
g. grounds

SOLICITORS AND BARRISTERS

Exercise 1 *(p25)*

a. solicitor
b. attorney
c. qualify
d. client
e. practices
f. partnerships
g. associate
h. partner
i. court
j. issued
k. audience
l. judge

Exercise 2 *(p26)*

a. David Ross & Co (0771 222 0046)
b. Marion Kaye (0771 777 5454)
c. Judy Barclay (0771 3339989)
d. Patel & Co (0771 333 2323)

Exercise 3 *(p28)*

a. negligence
b. conveyancing
c. redundancy
d. charity
e. insolvency
f. tenant

Exercise 4 *(p28)*

a. True
b. False (this law firm specialises in suing schools and colleges for negligence)
c. False
d. True
e. True

AREAS OF LAW

Exercise 1 *(p29)*

a. criminal
b. civil
c. civil
d. criminal
e. civil
f. civil
g. civil
h. criminal

Exercise 2 *(p29)*

a. Intellectual property law
b. The law of equity and trusts
c. Family law
d. I.T. law
e. The law of real property/conveyancing
f. Contract law
g. The law of tort
h. Employment/labour law
i. Business and company law
j. Maritime law

Exercise 3 *(p30)*

a. Contract law
b. Business and company law
c. The law of equity and trusts
d. The law of tort
e. Family law
f. The law of real property/conveyancing
g. Maritime law
h. Employment law

THE REGISTER OF LETTER WRITING

Exercise 1 *(p31)*

a. Firstly
b. issuing a claim
c. drafting
d. conveyancing
e. sue
f. negligent
g. mediation
h. redundant
i. Finally
j. sole practitioners
k. sick pay
l. maternity leave

LISTENING

Exercise 1 *(p33)*

a. solicitor
b. insolvency
c. barrister
d. corporate
e. drafting
f. acting
g. conveyancing
h. tenant
i. intellectual
j. qualify

USING YOUR KNOWLEDGE

Collocation review *(p34)*

a. making
b. breach
c. drafting
d. qualify
e. setting up/forming
f. running
g. practise
h. suffered
i. damages
j. take

Vocabulary review *(p34)*

a. tenant
b. redundant
c. partnership
d. insolvency
e. conveyancing
f. mediation
g. negligence
h. barrister
i. goods
j. attorney

Preposition review *(p35)*

a. on
b. from
c. with
d. in
e. against
f. into
g. over
h. to
i. for
j. into

TOLES HIGHER EXAM PRACTICE

Exercise 1 *(p36)*

1. (B)
2. (D)
3. (C)
4. (B)
5. (A)
6. (D)
7. (D)
8. (C)
9. (D)
10. (A)

Exercise 2 *(p37)*

1. practise
2. chambers
3. partnerships
4. employed
5. pleading
6. advocate
7. drafting
8. owe
9. proceedings
10. damages

Exercise 3 *(p38)*

1. For over ten years.
2. Economics.
3. One year.
4. Because law firms like diversity and to employ people with a wide range of skills and knowledge.
5. The UK Bachelor's degree in law.
6. The skill of speaking on behalf of a client in court.
7. Negotiation skills and client interviewing.
8. Maths.
9. Because universities produce too many law graduates.
10. It's a list of solicitors who are allowed to practise law.

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UNIT 2A
THE LANGUAGE OF BANKING

A NEW BANK ACCOUNT

***Exercise 1** (p41)*

Verbs: to issue, to withdraw, to deposit, to transfer
Nouns: charges, statement, balance, bills, fees, overdraft
Adjectives: eligible, current

***Exercise 2** (p42)*

a. balance
b. deposit
c. current
d. issue
e. overdraft
f. bill
g. fee
h. withdraw
i. transfer
j. eligible
k. charges
l. statement

***Exercise 3** (p43)*

1. d
2. b
3. f
4. a
5. c
6. e
7. g

***Exercise 4** (p43)*

a. DEBIT
b. INCOME
c. OUTGOINGS
d. LEND
e. BORROW
f. OWE
g. DEBT
h. RED
i. BLACK

***Exercise 5** (p44)*

a. red
b. debits
c. borrow
d. lend
e. debts
f. owe
g. income
h. credits
i. black
j. outgoings

***Exercise 6** (p45)*

a. within
b. at
c. for
d. at
e. from
f. with

***Exercise 7** (p46)*

a. 5
b. 4
c. 6
d. 8
e. *
f. 2
g. 7
h. 1
i. 3
j. 9
k. 10

WORKING IN A BANK

***Exercise 1** (p47)*

a. The bank likes to have new customers because they make money for the bank.
b. The bank can open a business account for them.
c. The bank offers an interest rate of 4.3% on its SmartSave account.
d. A debit card takes money out of someone's account immediately.
e. To default on a loan means that you do not pay the money back.
f. If a stranger has your address and credit card number they can use your money to buy things or take money out of your account.

***Exercise 2** (p48)*

a. False
b. False
c. True
d. False
e. False

LOANS

***Exercise 1** (p48)*

a. Alison Goldsmith
b. The Royal Chatsworth Bank
c. Her house
d. 22 Bluebell Crescent, Chatsworth
e. She is single
f. £5000
g. No
h. By instalments

***Exercise 2** (p49)*

a. Yesterday
b. When she completed the application form
c. Alison's personal details
d. The bank approved it
e. By letter
f. The loan agreement
g. 36 months
h. No

***Exercise 3** (p49)*

a. from
b. for
c. to
d. in

***Exercise 4** (p50)*

a. debt
b. arrears
c. arrears
d. accrue
e. debt
f. accruing

TOLES FOUNDATION EXAM PRACTICE

***Exercise 1** (p52)*

1. (D)
2. (B)
3. (D)
4. (D)
5. (A)

***Exercise 2** (p52)*

1. (B)
2. (B)
3. (A)
4. (A)
5. (A)

***Exercise 3** (p53)*

a. The head office of the Glen Royal Bank is in Edinburgh.
b. The Chatsworth branch opened in 1988.
c. They complained because some UK banks were charging their customers more than £100 for going over their agreed overdraft limit.
d. Ella Moran took legal action before the Office of Fair Trading made its report because she was too angry to wait for them to help her.
e. Ella Moran's agreed overdraft limit was £500.
f. Ella Moran's overdraft accidentally reached £560 because her pay arrived at the bank three days later than usual.
g. Chatsworth solicitor Barry Henshall acted for Ella Moran in court.
h. Ella Moran won her case very easily because the bank did not file a defence.
i. The bank had to pay £565 to Ella Moran to pay back the unfair charges and to cover legal costs.
j. Consumer law says that banks must not use penalty charges to make a profit.

UNIT 2B
THE LANGUAGE OF BANKING

A BANK ACCOUNT

***Exercise 1** (p56)*

a. Internet banking for quick and easy transactions
b. Convenient telephone banking
c. Secure PIN number
d. Free legal information helpline
e. Interest-free overdraft facility
f. Competitive loan rates

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Exercise 2 *(p57)*

across
2. default
7. interest rate
8. cheque
9. withdrawal
10. income
11. balance
13. borrowing
14. marital status

down
1. credit card
3. approved
4. accruing
5. branch
6. statement
7. instalments
12. lender

AN EMAIL FROM THE BANK

Exercise 1 *(p58)*

a. (5)
b. (8)
c. (9)
d. (7)
e. (1)
f. (10)
g. (2)
h. (3)
i. (4)
j. (6)

LISTENING

Exercise 1 *(p59)*

Section 1
Purpose of the loan: home improvements
Loan amount: £6000
Repayment period: 60 months/ five years.

Section 2
Title: Ms
Forename: Alison
Surname: Finch
Middle Initial(s): none
Date of Birth: 06.01.1979
Email address: Alison.Finch79@hotmail.com
Number of dependant children: one
Marital status: divorced
What sort of application: single
Any other name: No

Section 3
House name/number: 39
Postcode: CH5 9QJ
Residential status: owner
Time at current address: two years and one month
Home telephone number: (area code) 0771 (number) 6520309
Mobile telephone number: 08991670325

THE LANGUAGE OF CONTRACT

Exercise 1 *(p61)*

a. Password
b. Online Service
c. Customer
d. User
e. Bank

Exercise 2 *(p61)*

a. comply
b. disclose
c. inform
d. suspend
e. authorise
f. attribute
g. cancel
h. deems
i. render
j. process

Exercise 3 *(p62)*

a. 2.2
b. 2.4
c. 2.5

THE REGISTER OF LETTER WRITING

Exercise 1 *(p63)*

a. inform
b. fallen into arrears
c. took out
d. instalments
e. collect
f. accruing
g. charged
h. standard
i. response
j. in default

USING YOUR KNOWLEDGE

Collocation review *(p65)*
a. open
b. rate
c. made
d. withdraw
e. check
f. range
g. cover
h. consolidating
i. process
j. took out

Vocabulary review *(p65)*
a. branches
b. overdraft
c. password
d. suspended
e. accruing
f. instalments
g. default
h. charges
i. red
j. statement

Preposition review *(p66)*
a. with
b. from
c. for
d. of
e. at
f. by
g. of
h. over
i. within
j. through

TOLES HIGHER EXAM PRACTICE

Exercise 1 *(p67)*

1. credit
2. red
3. take
4. instalments
5. interest
6. branch
7. currency
8. rate
9. balance
10. transfers

Exercise 2 *(p68)*

1. exceed
2. calculated
3. maximum
4. currently
5. owe

Exercise 3 *(p69)*

1. (C)
2. (A)
3. (D)
4. (A)
5. (D)
6. (B)
7. (D)
8. (A)
9. (C)
10. (B)

Exercise 4 *(p70)*

1. True
2. True
3. True
4. True
5. False
6. False
7. True
8. True
9. False
10. False

UNIT 3A
THE LANGUAGE OF CONTRACT LAW

A CONTRACT CASE

Exercise 1 *(p73)*

a. Client details
b. General information
c. Facts of the case
d. What I need to do

Exercise 2 *(p74)*

a. False
b. True
c. False
d. False
e. True

In some legal systems Charlotte may have made a contract with Chatsworth CitiTravel. According to English law she has not. We will look at the reasons in this unit.

Exercise 3 *(p74)*

a. (5
b. (1)
c. (2)
d. (6)
e. (4)
f. (3)

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***Exercise 4** (p75)*
a. contract
b. obliged
c. precedent
d. acceptance
e. offer
f. offeror
g. case

MORE ABOUT PRECEDENT

***Exercise 1** (p75)*
a. False
b. True
c. False
d. False
e. True

***Exercise 2** (p76)*
a. common
b. precedent
c. ratio decidendi
d. binding
e. instance

***Exercise 3** (p77)*
1. g
2. d
3. f
4. e
5. a
6. h
7. b
8. i
9. c

THE ELEMENTS OF A CONTRACT

***Exercise 1** (p78)*
The answer key does not provide an answer to this question. This is because the question asks for your opinion.

***Exercise 2** (p78)*
The elements of a contract in English law are: intention, offer, acceptance and consideration

***Exercise 3** (p79)*
a. offer
b. consideration
c. intention
d. acceptance

***Exercise 4** (p79)*
The answer key does not provide an answer to this question. This is because the question asks for your opinion.

THE END OF AN OFFER

***Exercise 1** (p80)*
(a) LAPSED
The offeror is: DDS Furniture Ltd
The offeree is: David Jackson
(b) COUNTER-OFFER
The offeror is: Julie Smith
The offeree is: Alex Harrison
(c) REJECTED
The offeror is: Jamie Hammond
The offeree is: Ben Wardle
(d) REVOKED
The offeror is: Mia Thomas
The offeree is: Andrea Stewart

WHAT IS CONSIDERATION?

***Exercise 1** (p81)*
a. intention
b. provide
c. precedent(s)
d. forbearance
e. reciprocal
f. benefit
g. detriment

***Exercise 2** (p82)*
See page 438 at the end of the Answer Key.

CONTRACT AND STATUTE

***Exercise 1** (p82)*
a. Parliament
b. MPs
c. A statute/an Act of Parliament
d. Elected
e. Legislation
f. An election

***Exercise 2** (p83)*
a. True
b. False
c. True
d. False
e. False

***Exercise 3** (p84)*
Verbs: covers (to cover), places (to place)
Nouns: terms, transactions restrictions, liability

***Exercise 4** (p 84)*
a. transaction
b. cover
c. restriction
d. liability
e. terms
f. place

***Exercise 5** (p84)*
a. terms 2
b. term 2
c. term 1
d. terms 1

READING CONTRACT LAW

***Exercise 1** (p85)*
a. False
b. True
c. True
d. True
e. False

***Exercise 2** (p 86)*
a. capacity
b. seal
c. sum
d. discharged
e. enforceable
f. injured party
g. voluntarily
h. contrary
i. donation
j. comply

GOING TO COURT

***Exercise 1** (p87)*
a. False
b. True
c. False
d. False
e. True

***Exercise 2** (p87)*
a. 4
b. 5
c. 1
d. 6
e. 2
f. 3

***Exercise 3** (p88)*
a. defective
b. direct loss
c. sue
d. defendant
e. consequential
f. claimant

TOLES FOUNDATION EXAM PRACTICE

***Exercise 1** (p90)*
1. (D)
2. (C)
3. (B)
4. (D)
5. (D)

***Exercise 2** (p90)*
1. (A)
2. (B)
3. (B)
4. (A)
5. (B)

***Exercise 3** (p91)*
1. (A)
2. (D)
3. (F)
4. (E)
5. (H)
6. (B)
7. (I)
8. (G)
9. (J)
10. (C)

UNIT 3B THE LANGUAGE OF CONTRACT LAW

WHERE DOES CONTRACT LAW COME FROM?

***Exercise 1** (p93)*
a. MP
b. drafted
c. administrative
d. approves
e. amendments
f. rejects
g. elected
h. formality
i. into force
j. legislation

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Exercise 2 *(p94)*

a. common
b. judge
c. precedent
d. judgment
e. guidance
f. binding
g. instance
h. distinguish

Exercise 3 *(p95)*

a. from
b. of
c. as
d. for
e. through
f. on
g. to
h. into

READING A STATUTE

Exercise 1 *(p97)*

a. 2
b. 3
c. 1
d. 5
e. 4

Exercise 2 *(p98)*

a. purports to exclude
b. arising in the course of
c. occupation of any premises
d. void in any case
e. have no effect
f. incorporate the term

Exercise 3 *(p98)*

a. under
b. above
c. to
d. of
e. of

THE ELEMENTS OF A CONTRACT

Exercise 1 *(p99)*

1. Consideration
2. Offer
3. Intention to create a legal relationship
4. Acceptance

READING A CONTRACT CASE

Exercise 1 *(p100)*

a. This case was heard in the Court of Appeal.
b. Mr Balfour was a civil servant at the time of the case.
c. The claimant did not return to Ceylon with her husband because her doctor advised her to stay in England.
d. The judge in the court of first instance decided that the parties had a contract.
e. The judge in this case was Lord Justice Atkin.

Exercise 2 *(p101)*

a. sued
b. extent
c. term
d. hold
e. spouses

Exercise 3 *(p101)*

a. True
b. False
c. True
d. True

OFFER AND ACCEPTANCE

Exercise 1 *(p102)*

a. counter-offer
b. lapse of time
c. revocation
d. death of the offeror/offeree
e. rejection

Exercise 2 *(p103)*

a. 4
b. 1
c. 3
d. 5
e. 2

CONSIDERATION

Exercise 1 *(p104)*

a. profit
b. detriment
c. suffer
d. reason
e. reciprocal
f. contrary
g. unqualified
h. consent
i. terms
j. donations

Exercise 2 *(p105)*

a. consideration
b. provided
c. sum
d. provision

LISTENING

Exercise 1 *(p106)*

a. no
b. Texas
c. on a handshake
d. Texaco
e. $10.6 billion
f. written contracts
g. a seal of red wax
h. a contract for the sale of land
i. bilateral
j. unilateral

CONTRACT LAW IN PRACTICE

Exercise 1 *(p107)*

a. in
b. over
c. into
d. for
e. to
f. at
g. of
h. from
i. through
j. against

Exercise 2 *(p107)*

a. to
b. of
c. with
d. against
e. as
f. by
g. for
h. from

Exercise 3 *(p108)*

a. are aware
b. notice
c. replacement
d. admitted
e. inconvenience
f. grounds
g. breach
h. issue proceedings
i. compensation
j. as soon as possible

STARTING A CLAIM FOR BREACH OF CONTRACT

Exercise 1 *(p110)*

a. contracted
b. defective
c. cover
d. dispute

Exercise 2 *(p111)*

See page 439 at the end of the Answer Key.

USING YOUR KNOWLEDGE

Collocation review *(p112)*

a. suggest/make
b. stages
c. binding
d. failed
e. common
f. provide
g. handed
h. heard
i. awarded
j. appeal

Vocabulary review *(p112)*

a. lapse
b. counter
c. oral
d. statute
e. offeror
f. overruled
g. reciprocal
h. detriment
i. bilateral
j. deed

Preposition review *(p113)*

a. in
b. by
c. under
d. until
e. through
f. on
g. on/upon
h. between
i. by
j. from

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TOLES HIGHER EXAM PRACTICE

***Exercise 1** (p114)*

1. (B)
2. (C)
3. (A)
4. (C)
5. (A)
6. (D)
7. (B)
8. (D)
9. (C)
10. (A)

***Exercise 2** (p115)*

1. binding
2. writing
3. Intention
4. terms
5. offeree
6. counter
7. precedents
8. consideration
9. exception
10. deed

***Exercise 3** (p116)*

1. False
2. True
3. True
4. False
5. True
6. True
7. False
8. True
9. False
10. True

UNIT 4A THE LANGUAGE OF EMPLOYMENT LAW

BEING AN EMPLOYER

***Exercise 1** (p119)*

a. Peter Connolly owns shoe shops.
b. Peter Connolly employs 12 staff.
c. Two staff work in the office.
d. The payroll shows Peter Connolly who works for the company and what remuneration each person receives from him each month.
e. Remuneration means payment.
f. Peter Connolly's staff are paid monthly.
g. Peter Connolly's full-time staff work for 35 hours a week.

***Exercise 2** (p120)*

a. well-motivated
b. maternity leave
c. C.V.
d. team
e. wide range
f. temporary
g. applicant
h. covering letter
i. closing date
j. track record

***Exercise 3** (p121)*

a. for
b. in
c. at
d. to
e. at
f. from

***Exercise 4** (p122)*

a. apply
b. enclosed
c. cashier
d. skills
e. enthusiastic
f. free
g. opportunity
h. position

AN EMPLOYMENT CONTRACT

***Exercise 1** (p122)*

a. Remuneration
b. Confidentiality
c. Term of the contract
d. Working hours
e. Disciplinary procedure
f. Pension
g. Job title
h. Holidays
i. Termination
j. Grievance procedure
k. Non-competition
l. Sick pay

***Exercise 2** (p124)*

a. term
b. provisions
c. title
d. hours
e. salary
f. holiday
g. sick pay
h. terminate

***Exercise 3** (p124)*

a. Non-competition
b. Remuneration
c. Grievance procedure
d. Job title
e. Sick pay
f. Term
g. Pension
h. Holidays
i. Confidentiality
j. Disciplinary procedure
k. Working hours
l. Termination

HOW CAN AN EMPLOYMENT CONTRACT END?

***Exercise 1** (p127)*

a. resign
b. resignation
c. notice
d. handing

***Exercise 2** (p127)*

a. retire
b. retirement
c. pension
d. plan

***Exercise 3** (p127)*

a. redundant
b. Redundancy
c. payment
d. training

***Exercise 4** (p127)*

a. dismissed
b. misconduct
c. procedure
d. sacked

***Exercise 5** (p128)*

a. leaving
b. fixed
c. period
d. month

***Exercise 6** (p128)*

a. from
b. of
c. on
d. for
e. in
f. of
g. for
h. on
i. of
j. on/upon

ACTING FOR AN EMPLOYEE

***Exercise 1** (p128)*

a. (3)
b. (6)
c. (4)
d. (2)
e. (8)
f. (7)
g. (5)
h. (1)

***Exercise 2** (p130)*

a. discrimination
b. constructive
c. tribunal
d. appraisal
e. unfair

ACTING FOR AN EMPLOYER

***Exercise 1** (p130)*

a. (2)
b. (6)
c. (1)
d. (8)
e. (7)
f. (3)
g. (4)
h. (9)
i. (5)
j. (10)

***Exercise 2** (p131)*

a. legislation
b. regulations
c. seminars
d. duty of care
e. contentious
f. allegations
g. docked
h. on-the-spot
i. trade union
j. strike

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AN EMPLOYMENT CASE

Exercise 1 *(p132)*

a. He has an estate agency.
b. Julie Murphy was a receptionist.
c. Yes, Julie Murphy did have a good relationship with the other people in her office.
d. Julie Murphy had two days away from work.
e. Mr Penhaligon advertised the job of assistant manager in the local newspaper.
f. There were 16 candidates for the job of assistant manager.
g. Mr Penhaligon refused to interview Julie Murphy for the job.
h. Mr Penhaligon would prefer to employ an older woman or a man as assistant manager.
i. Julie Murphy is very angry about Mr Penhaligon's decision.
j. The grounds for the claim are discrimination.

TOLES FOUNDATION EXAM PRACTICE

Exercise 1 *(p134).*

1. Your skills are the things that you can do **good.**
2. Your employer did not **make** the correct procedure when he dismissed you.
3. Could you please confirm **me** that you agree to pay my client for his work?
4. Marco explained **me** at our meeting yesterday that his company dismissed him because he is a foreigner.
5. I would like to discuss **about** my salary for next year.

Exercise 2 *(p134)*

1. notice
2. grounds
3. claim
4. factors
5. procedure
6. writing
7. trade
8. appeal
9. spot
10. sue

Exercise 3 *(p135)*

I bad or unacceptable behaviour
J tell, reveal
H end
B the duties and conditions contained in a contract
D to have the right to something
A a person or company who signs a contract
E a period of time a person is away from the place they are expected to be
G money that a person receives after he or she stops working
F to give because you choose to give and not because you must
C payment

UNIT 4B THE LANGUAGE OF EMPLOYMENT LAW

FINDING A JOB

Exercise 1 *(p137)*

a. legislation
b. grievance
c. absence
d. remuneration
e. training
f. temporary
g. track record
h. recruitment

Exercise 2 *(p137)*

a. generate
b. range
c. applicant
d. essential

Exercise 3 *(p139)*

a. True
b. False
c. True
d. False
e. True

Exercise 4 *(p139)*

a. from
b. on
c. of
d. on
e. as

WORKING IN EMPLOYMENT LAW

Exercise 1 *(p140)*

a. tribunal
b. confidential
c. representation
d. employers
e. statutory
f. governed
g. judgments
h. complying
i. safety
j. paternity
k. data
l. legislation

Exercise 2 *(p141)*

a. advising on family related issues such as maternity and paternity rights
b. acting on behalf of clients at employment tribunals
c. data protection
d. advising on pension rights
e. drafting contracts of employment
f. health and safety at work issues
g. advising on all aspects of discrimination at work

Exercise 3 *(p141)*

a. It is difficult to describe a typical employment case because the work is very varied.
b. Paul chose to practise in the area of employment law because the work is varied and interesting.
c. An employer is more likely to use Paul's services because an employer is more likely to be able to afford legal representation.
d. An employment lawyer needs some of the same skills as a family lawyer because emotions are involved and clients feel very strongly about the issues concerned.
e. Paul describes the rights of workers and obligations of employers that arise from Acts of Parliament as statutory rights and obligations.
f. Paul has been working for Freeman Smith for 12 years.
g. More employment lawyers have been needed in recent years because employees are more aware of their rights.
h. Paul says that employers feel unhappy about current employment law.

LISTENING

Exercise 1 *(p143)*

a. force
b. promotion
c. staff
d. recruitment
e. graduate
f. applicants
g. currently
h. two-day
i. related
j. financially

SOME CLAUSES FROM AN EMPLOYMENT CONTRACT

Exercise 1 *(p145)*

a. under
b. of
c. into
d. on
e. In

Exercise 2 *(p145)*

a. remuneration
b. reimbursed
c. incurred
d. accordance
e. force

Exercise 3 *(p146)*

a. provisions
b. neglect
c. other than
d. adversely
e. misconduct
f. imposed
g. without prejudice to
h. in respect of
i. convicted
j. subject

Exercise 4 *(p146)*

a. False
b. True
c. True
d. False
e. True

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AN EMPLOYMENT TRIBUNAL

Exercise 1 *(p147)*

a. arises
b. sort out
c. get
d. accept
e. hold
f. issue

Exercise 2 *(p147)*

a. conciliation
b. response
c. default judgment
d. case management

Exercise 3 *(p148)*

a. False
b. True
c. False
d. True
e. True

Exercise 4 *(p149)*

a. do
b. with
c. Can
d. How
e. When

Exercise 5 *(p149)*

a. An employment tribunal hears cases and makes decisions on matters connected with employment.
b. You can find a full list of the categories of complaints that employment tribunals deal with from the Chatsworth Tribunal Office or from the tribunal office website.
c. The staff at an employment tribunal office cannot give legal advice.
d. The tribunal office gives your employer 28 days to respond to your initial letter of complaint before you can bring a claim.
e. The three-month period begins with the date that your employment ended or when the event that you are complaining about took place.

Exercise 6 *(p150)*

a. employment matters
b. unfair dismissal
c. seek help
d. bring a claim
e. complete a claim form

AN EMPLOYMENT CLAIM

Exercise 1 *(p151)*

a. David Cainley
b. Dan Beale
c. Simon Cole
d. Arthur Bentley
e. Anna Kingston
f. Alex Harmon
g. Brian Hedley
h. Maggie Redman
i. Jack Walsh
j. Deborah Clark

Exercise 2 *(p154)*

a. awarded
b. manager
c. suspended
d. admitted
e. distressed
f. resigned
g. hearing
h. alleged
i. dismissal
j. earnings

Exercise 3 *(p154)*

a. Maggie Redman was a manager at Casa.
b. Maggie Redman's yearly salary at Casa was £30,000.
c. Michael and Sarah Roeder were the owners of Casa.
d. Maggie Redman had been working at Casa for two months.
e. Michael Roeder was not sympathetic when Maggie Redman told him that she was pregnant.
f. Maggie Redman said that she was too distressed to be able to work efficiently after her conversation with Michael Roeder.
g. Mr and Mrs Roeder punished Maggie for alleged offences by docking her salary.
h. No, Maggie Redman was not fired from her job at Casa.
i. Maggie Redman's grounds for bringing a case against her employers were constructive and unfair dismissal and sexual discrimination.
j. The tribunal awarded Maggie Redman damages of £60,000.

USING YOUR KNOWLEDGE

Collocation review *(p155)*

a. highly
b. incur
c. previous
d. applied
e. keep
f. adversely
g. material
h. convicted
i. contributed
j. imposes

Vocabulary review *(p155)*

a. applicant
b. leave
c. termination
d. dismissal
e. discriminate
f. sick
g. tribunals
h. equal
i. contentious
j. safety

Preposition review *(p155)*

a. with
b. on
c. by
d. with
e. into
f. Under
g. to
h. against
i. over
j. off

TOLES HIGHER EXAM PRACTICE

Exercise 1 *(p157)*

1. (C)
2. (A)
3. (D)
4. (B)
5. (E)

Exercise 2 *(p157)*

1. True
2. False
3. True
4. False
5. False
6. True
7. False
8. False
9. True
10. True

Exercise 3 *(p158)*

1. refer to
2. consulted
3. in this matter
4. contrary
5. grievance procedure
6. premises
7. gross misconduct
8. dispute
9. unfair dismissal
10. fourteen days of the date of this letter

UNIT 5A
THE LANGUAGE OF THE LAW OF TORT

WHAT IS THE LAW OF TORT?

Exercise 1 *(p161)*

a. True
b. False
c. False
d. False
e. True

Exercise 2 *(p162)*

a. compensate
b. liable
c. intention
d. negligence
e. damage

Exercise 3 *(p162)*

a. A tort is conduct that causes harm to another person.
b. The heads of tort are the different categories of tort that exist in English law.
c. To bring an action in tort means to sue someone on the grounds that I have suffered harm.
d. A remedy is something that compensates me for my loss or that stops the harm from happening again.

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e. The usual remedy for a tort is damages.
f. Lawyers give the name 'tortfeasor' to the person who commits a tort.

TYPES OF TORT

Exercise 1 *(p163)*

a. with
b. against
c. into
d. as
e. into

Exercise 2 *(p163)*

a. To trespass means to interfere with something or someone.
b. The two types of trespass are trespass to land and trespass to the person.
c. No, the law of tort does not always stay the same.
d. Lawyers usually divide the heads of tort into torts that cause harm to people and torts that cause harm to land.

Exercise 3 *(p163)*

a. negligence
b. duty of care
c. false imprisonment
d. assault
e. battery
f. trespass to the person
g. defamation
h. slander
i. libel

Exercise 4 *(p165)*

a. permission
b. walking
c. objects
d. enjoy
e. Claimants
f. factory
g. committed
h. grounds

THE DUTY OF CARE

Exercise 1 *(p165)*

a. (5)
b. (6)
c. (3)
d. (8)
e. (1)
f. (2)
g. (7)
h. (4)

Exercise 2 *(p166)*

a. True
b. False
c. False
d. True
e. False

Exercise 3 *(p167)*

a. upon/on
b. for
c. under
d. in
e. at

MORE ABOUT NEGLIGENCE

Exercise 1 *(p167)*

a. (4)
b. (5)
c. (1)
d. (6)
e. (3)
f. (2)

A FAMOUS CASE IN ENGLISH LAW

Exercise 1 *(p168)*

a. The McLibel case lasted for nine years and six months.
b. The claimant in this case was McDonald's.
c. The two defendants in this case were Helen Steel and David Morris.
d. Helen and David were worried about that way that certain large corporations were behaving in relation to the environment.
e. Helen and David told the public about their worries by giving out leaflets.
f. Helen and David claimed that McDonald's was partly to blame for the destruction of the rainforests.
g. McDonald's did not need proof of damage because libel is actionable *per se*.
h. The court of first instance held that Helen and David were guilty of libel.
i. The European Court decided that Helen and David's defence was not so well prepared as McDonald's' claim because Helen and David could not pay for an expensive legal team.
j. The European Court of Human Rights also ruled that Helen and David's right to free expression was violated.

TOLES FOUNDATION EXAM PRACTICE

Exercise 1 *(p171)*

1. (*)
2. f
3. h
4. a
5. d
6. b
7. g
8. e
9. c

Exercise 2 *(p172)*

1. heads
2. trespass
3. nuisance
4. conduct
5. failure
6. care
7. foreseeable
8. compensate
9. remedy
10. tortfeasor

Exercise 3 *(p173)*

1. False
2. True
3. False
4. True
5. True

UNIT 5B
THE LANGUAGE OF THE LAW OF TORT

AN INTRODUCTION TO THE LAW OF TORT

Exercise 1 *(p175)*

a. remedy
b. wronged
c. redress
d. care
e. breached
f. proof
g. damages
h. incurred
i. distress
j. deterrent

Exercise 2 *(p176)*

a. wronged
b. care
c. breached
d. damages
e. deterrent
f. proof
g. redress
h. incurred
i. distress
j. remedy

WHAT IS TORTIOUS LIABILITY?

Exercise 1 *(p177)*

a. True
b. True
c. False
d. False
e. True

Exercise 2 *(p178)*

a. duty of care
b. tortious liability
c. trespass to land
d. omission
e. vicarious liability
f. negligence
g. strict liability
h. tortfeasor
i. remote
j. libel

SOME CATEGORIES OF TORT

Exercise 1 *(p180)*

a. (6)
b. (4)
c. (2)
d. (3)
e. (5)
f. (8)
g. (1)
h. (7)

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LISTENING

Exercise 1 *(p181)*

a. the law of obligations
b. to remedy a wrong
c. monetary compensation/damages
d. injunction
e. the tort of interfering with another person's enjoyment of their land
f. tortious liability
g. the duty of care
h. not to harm a person's reputation
i. defective goods/a defective product
j. 'the dustbin' or 'the garbage can' of the law of obligations

THE TORT OF NEGLIGENCE

Exercise 1 *(p182)*

a. agree
b. ask
c. owe
d. contribute
e. argue
f. expect
g. do
h. establish

Exercise 2 *(p183)*

a. True
b. False
c. True
d. True
e. False

Exercise 3 *(p183)*

a. upon
b. under
c. of
d. by
e. At

THE MOST FAMOUS TORT CASE

Exercise 1 *(p184)*

a. Mrs Donoghue was from Glasgow.
b. The address of the café was 1 Wellmeadow Street, Paisley.
c. No one was able to see the contents of the bottle because the bottle was opaque.
d. Mrs Donoghue claimed to have found the partly decomposed remains of a snail in her bottle of ginger beer.
e. Mrs Donoghue was treated for gastro-enteritis soon after her visit to the café.
f. Mrs Donoghue was treated at the Glasgow Royal Infirmary.
g. Mrs Donoghue claimed that the incident had also caused nervous shock.
h. Mrs Donoghue's friend could have sued Mr Minchella if he or she had drunk the ginger beer because there was a contract between them.
i. It is surprising that Mr Leechman decided to take this case to court because there was no legal precedent for such an action.
j. This case established that there is a duty of care between manufacturers and consumers.

USING YOUR KNOWLEDGE

Collocation review *(p186)*

a. awarded
b. loss
c. acts
d. imposes
e. owed
f. assumes
g. establish
h. suffered
i. foreseeable
j. chain

Vocabulary review *(p186)*

a. distress
b. tortious
c. vicarious
d. strict
e. tortfeasor
f. nuisance
g. defamation
h. trespass
i. remedy/redress
j. remote

Preposition review *(p187)*

a. for
b. to
c. on/upon
d. to
e. from
f. by
g. on/upon
h. of
i. in
j. for

TOLES HIGHER EXAM PRACTICE

Exercise 1 *(p188)*

1. (C)
2. (D)
3. (A)
4. (D)
5. (B)
6. (B)
7. (D)
8. (C)
9. (B)
10. (C)

Exercise 2 *(p189)*

1. (C)
2. (B)
3. (D)
4. (D)
5. (A)
6. (C)
7. (B)
8. (A)
9. (C)
10. (A)

Exercise 3 *(p190)*

1. True
2. False
3. True
4. False
5. True
6. False
7. False
8. False
9. True
10. False

UNIT 6A UNDERSTANDING CONTRACTS (1)

THE STYLE OF WRITTEN CONTRACTS

Exercise 1 *(p193)*

a. The English of contracts is more difficult than general English.
b. A typical sentence in a contract written in English can be 100 words or more.
c. No. Lawyers sometimes use a different word order when they draft contracts.
d. Lawyers use long lists of synonyms when they draft contracts because they think about the fact that a judge will interpret the contract if there is a dispute.
e. People give the name 'legalese' to the style of writing that lawyers use.
f. Modern lawyers are encouraged to write in a style called 'plain English'.

Exercise 2 *(p194)*

a. 5
b. 4
c. 7
d. 6
e. 2
f. 1
g. 3
h. 8

Exercise 3 *(p195)*

a. 3
b. 1
c. 2

UNDERSTANDING FORMAL EXPRESSIONS

Exercise 1 *(p195)*

a. soon
b. now
c. if
d. while
e. until
f. by
g. because
h. at least

Exercise 2 *(p196)*

a. While
b. If
c. until
d. Because
e. soon
f. now
g. by
h. at least

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***Exercise 3** (p197)*
a. inasmuch as
b. notwithstanding
c. notwithstanding
d. inasmuch as

***Exercise 4** (p198)*
a. before
b. depending on
c. involved in, doing
d. including
e. named, called, mentioned

***Exercise 5** (p198)*
a. inclusive of
b. referred to
c. engaged in
d. prior to
e. subject to

UNDERSTANDING TECHNICAL WORDS

***Exercise 1** (p199)*
a. 6
b. 3
c. 4
d. 2
e. 1
f. 5

***Exercise 2** (p199)*
a. outlet
b. invoice
c. defective
d. manufacture
e. sum
f. retailer

***Exercise 3** (p200)*
a. TERM
b. GIVE NOTICE
c. EXPIRATION
d. PROCUREMENT
e. AGGREGATE
f. UNDERTAKE
g. INCUR

***Exercise 4** (p200)*
a. expiration
b. aggregate
c. undertake
d. procurement
e. give notice
f. term
g. incur

UNDERSTANDING ARCHAIC TERMS

***Exercise 1** (p201)*
a. archaic
b. legal
c. delete
d. preposition
e. clause
f. mentioned
g. hereinafter
h. thereon

***Exercise 2** (p202)*
a. hereinafter
b. heretofore
c. hereby
d. herein
e. hereunder

***Exercise 3** (p203)*
a. thereby
b. thereto
c. therein
d. thereinafter
e. thereon

***Exercise 4** (p204)*
a. invoice
b. delivery date
c. delivery note
d. defective goods

UNDERSTANDING SOME COMMON WORDS

***Exercise 1** (p204)*
a. Premises
b. Copyright
c. Import duty
d. Carriage
e. Staff
f. trademark
g. invention
h. In transit
i. hirer
j. patent
k. On board
l. owner

***Exercise 2** (p205)*
A contract for the hire of a hotel for a company's conference: premises, staff, hirer, owner.
A contract for the transport of goods by ship: import duty, carriage, in transit, on board.
A contract concerning a company's intellectual property rights: copyright, trademark, patent, invention.

***Exercise 3** (p206)*
a. owner
b. hirer
c. premises
d. staff

***Exercise 4** (p206)*
a. on board
b. carriage
c. import duty
d. in transit

***Exercise 5** (p206)*
a. invention
b. copyright
c. patent
d. trademark

THE STRUCTURE OF A CONTRACT

***Exercise 1** (p208)*
a. 2
b. 4
c. 1
d. 7
e. 3
f. 5
g. 6

***Exercise 2** (p208)*
a. the defined terms
b. the parties
c. the delivery of goods/services
d. the recitals
e. the key obligations

***Exercise 3** (p209)*
a. parties
b. scratch
c. recitals
d. bank
e. delivery

TOLES FOUNDATION EXAM PRACTICE

***Exercise 1** (p212)*
1. (A)
2. (B)
3. (B)
4. (A)
5. (A)

***Exercise 2** (p212)*
1. (G)
2. (E)
3. (C)
4. (A)
5. (H)
6. (J)
7. (F)
8. (B)
9. (D)
10. (I)

***Exercise 3** (p212)*
B contract
C amount of money
F receiving
D written, specified
E the currency of the United Kingdom; pounds.
J agreed date for payment
G grow, accumulate
A provided
H late
I if

UNIT 6B UNDERSTANDING CONTRACTS (1)

THE DIFFERENT PARTS OF A WRITTEN CONTRACT

***Exercise 1** (p215)*
a. the key obligations
b. the recitals
c. the defined terms
d. a schedule
e. the parties
f. the delivery of goods/services

PARTIES AND RECITALS

***Exercise 1** (p216)*
a. referred
b. and
c. Buyer
d. engaged
e. retailer
f. subject

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Exercise 2 *(p217)*

a. 5
b. 6
c. 1
d. 3
e. 4
f. 7
g. 8
h. 2

Exercise 3 *(p217)*

a. on
b. in
c. at
d. of
e. by
f. to

Exercise 4 *(p218)*

a. nineteenth/19
b. July
c. BPP Distribution Ltd
d. 3456789
e. The English Educational Press Ltd
f. 6789012
g. Publisher

Exercise 5 *(p218)*

a. registered
b. set out
c. hereinafter
d. chain
e. WHEREAS
f. engaged

DEFINED TERMS

Exercise 1 *(p219)*

a. 3
b. 2
c. 4
d. 1

Exercise 2 *(p220)*

a. servant
b. employee
c. professor
d. agent
e. principal

Exercise 3 *(p220)*

a. In
b. for
c. by
d. to
e. with
f. of

Exercise 4 *(p221)*

a. (2)
b. (1)
c. (4)
d. (3)

Exercise 5 *(p222)*

a. To be issued with something means to be given something in the correct way or using the correct procedure.
b. Servants are employees.
c. Hereof means of this contract.
d. Sums payable means the amounts of money owed.
e. Fields means areas.

Exercise 6 *(p222)*

a. contrary
b. servants
c. headings
d. principal
e. field

THE KEY OBLIGATIONS

Exercise 1 *(p223)*

a. Hirer
b. Schedule
c. set out
d. Premises
e. sum
f. consideration
g. hereto
h. hereby
i. hereinafter

Exercise 2 *(p224)*

a. Some words have a capital letter whenever they are used in this contract because they are defined terms.
b. The hotel has been given the term 'London Bridge Hotel' in the definitions section of this contract.
c. The wine importing company has been given the term 'the Hirer' in the definitions section of this contract.
d. The Hirer should look in the Schedule to find out how much the hire of the rooms in the hotel will cost.
e. The Hirer also has the right of access to the rooms by the usual routes.
f. In later clauses of this contract the three rooms are referred to as 'the Hired Premises'.

Exercise 3 *(p225)*

1. b, c.
2. a, d.

Exercise 4 *(p226)*

a. howsoever
b. execution
c. aforesaid
d. applied
e. expiration
f. deposit

Exercise 5 *(p226)*

a. Term
b. aggregate
c. defective
d. procurement
e. annum

Exercise 6 *(p227)*

a. of
b. by
c. with

Exercise 7 *(p227)*

a. Term
b. Agreement
c. Tech1 Consulting
d. Customer
e. Schedule A
f. Office Hours
g. Premises
h. Schedule B

Exercise 8 *(p228)*

a. payable
b. reviewed
c. increase
d. Included
e. Additional
f. Overnight

Exercise 9 *(p229)*

a. on
b. by
c. at
d. of
e. after
f. In
g. within

Exercise 10 *(p230)*

a. Term
b. Schedule
c. consideration
d. defective
e. deposit

DELIVERY OF GOODS OR SERVICES

Exercise 1 *(p230)*

a. (C)
b. (C)
c. (A)
d. (C)
e. (C)

Exercise 2 *(p231)*

a. I will find the list of goods that are being sold under this agreement in Schedule A.
b. The name of the ship is 'the Queen of the Liffey'.
c. The Seller is responsible for the costs of transporting the goods from the factory where they are made to the ship.
d. The Seller is liable for any taxes that must be paid when the goods leave Ireland.
e. The Seller will suffer the loss if some of the goods are broken when they are being removed from the lorry to be loaded onto the ship.
f. The buyer will suffer the loss if some of the goods are broken a few moments after they are loaded onto the ship.

Exercise 3 *(p232)*

a. Seller
b. liability
c. notice
d. receipt
e. option
f. delivery

Exercise 4 *(p232)*

a. by
b. for
c. of
d. to
e. from
f. within

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Exercise 5 *(p233)*

a. cover the costs
b. which arises from
c. In the event that
d. be binding upon
e. incurred by the Customer
f. 48 hours of receipt

Exercise 6 *(p233)*

a. borne
b. liable
c. option
d. board
e. transit

USING YOUR KNOWLEDGE

Collocation review *(p235)*

a. set out
b. served
c. entering
d. carry out/perform
e. defective
f. set
g. comply
h. bear
i. incurred
j. loaded

Vocabulary review *(p235)*

a. recitals
b. retailer
c. servant
d. agent
e. consideration
f. term
g. aggregate
h. procure
i. transit
j. essence

Preposition review *(p236)*

a. on
b. to
c. to
d. to
e. for
f. under
g. on
h. between
i. Under
j. in

TOLES HIGHER EXAM PRACTICE

Exercise 1 *(p237)*

1. (B)
2. (E)
3. (D)
4. (A)
5. (C)

Exercise 2 *(p237)*

1. (B)
2. (D)
3. (C)
4. (E)
5. (A)

UNIT 7A THE LANGUAGE OF BUSINESS LAW

SOLE TRADERS

Exercise 1 *(p239)*

Verbs/phrasal verbs: to set up, to register, to manage.
Nouns/compound nouns: sole trader, profit, option, investment, assets, expenses.
Adjectives: liable, self-employed, annual.

Exercise 2 *(p240)*

a. option
b. expenses
c. investment
d. set up
e. sole trader
f. self-employed
g. profit
h. assets
i. liable
j. register
k. manage
l. annual

Exercise 3 *(p241)*

a. (5)
b. (4)
c. (3)
d. (1)
e. (2)

PARTNERSHIPS

Exercise 1 *(p242)*

a. in
b. of
c. between
d. for
e. for

Exercise 2 *(p242)*

a. (3)
b. (6)
c. (4)
d. (2)
e. (1)
f. (5)

Exercise 3 *(p243)*

a. Francesca Rodd advises them to have a partnership agreement.
b. To contribute money to the partnership means to invest money in the partnership.
c. Partners usually divide losses in the same proportion as they receive the profits.
d. Partners usually draw money out of the partnership bank account for their own use each month.
e. The other way is resignation.
f. A notice period is the period of warning that a partner has to give to the other partners before he or she leaves the partnership.
g. To expel someone means to force that person to leave the partnership.
h. To dissolve a partnership means to end the partnership.

Exercise 4 *(p244)*

a. False
b. False
c. True
d. True
e. False
f. False

Exercise 5 *(p244)*

a. drawings
b. contribute
c. loss
d. notice period
e. retire
f. expel
g. resign
h. capital
i. management
j. dissolved
k. trade under
l. proportion

Exercise 6 *(p245)*

a. EQUITY
b. SALARIED
c. SLEEPING

Exercise 7 *(p245)*

a. salaried
b. sleeping/dormant/silent
c. equity

A PARTNERSHIP AGREEMENT

Exercise 1 *(p246)*

a. What is the full name of each partner?
b. What name will the partnership trade under?
c. How much capital will each partner contribute to the partnership?
d. How will the partners share the profits or the losses?
e. How much will each partner's monthly drawings be?
f. Who will have authority to sign partnership cheques?
g. How long will the notice period for resignation be?
h. What will the retirement age be?

Exercise 2 *(p247)*

a. Samantha Sully and Kate Mace
b. Revitalise
c. £2500 each
d. 50:50
e. £500 a month each
f. Either partner can sign cheques
g. Three months
h. 55

LIMITED LIABILITY PARTNERSHIPS

Exercise 1 *(p248)*

a. Limited liability partnership
b. personal assets
c. limited liability
d. incorporated business
e. legal entity
f. member

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Exercise 2 *(p249)*
a. for
b. at
c. to
d. on
e. to
f. to

COMPANIES

Exercise 1 *(p249)*
a. (7)
b. (4)
c. (2)
d. (6)
e. (10)
f. (1)
g. (9)
h. (12)
i. (8)
j. (5)
k. (11)
l. (3)

Exercise 2 *(p250)*
a. To incorporate a company means to set up and register a new company in the proper way.
b. All companies in England are registered with Companies House.
c. A new company can begin to trade in the company's name when the name appears on the official register of companies.
d. Another name for a legal personality is a legal entity.
e. The people who own a company are called the members or shareholders.
f. A dividend is a payment of a company's profits to the shareholders.
g. A shareholder won't have to use his or her own money to pay the debts of the company because the shareholders have the protection of limited liability.

Exercise 3 *(p251)*
a. True
b. True
c. False
d. False
e. True
f. False

Exercise 4 *(p252)*
a. (1)
b. (3)
c. (4)
d. (5)
e. (2)

Exercise 5 *(p252)*
a. £4
b. £1
c. £3

PUBLIC AND PRIVATE LIMITED COMPANIES

Exercise 1 *(p253)*
a. False
b. True
c. False
d. True
e. False
f. True

Exercise 2 *(p254)*
a. Yes
b. No
c. No
d. Yes
e. No

Exercise 3 *(p255)*
1. d
2. h
3. c
4. j
5. a
6. f
7. e
8. g
9. b
10. i

INCORPORATING A COMPANY

Exercise 1 *(p256)*
a. off-the-shelf
b. articles of association
c. certificate of incorporation
d. memorandum of association
e. annual return

Exercise 2 *(p257)*
a. COMPANY NAME
b. REGISTERED OFFICE
c. OBJECTS
d. STATEMENT OF LIABILITY
e. SHARE CAPITAL
f. SUBSCRIBERS

Exercise 3 *(p258)*
a. subscribers
b. registered office
c. company name
d. objects
e. share capital
f. statement of liability

TOLES FOUNDATION EXAM PRACTICE

Exercise 1 *(p260)*
1. (J)
2. (H)
3. (C)
4. (F)
5. (I)
6. (A)
7. (E)
8. (D)
9. (G)
10. (B)

Exercise 2 *(p261)*
1. (D)
2. (B)
3. (A)
4. (C)
5. (A)

Exercise 3 *(p261)*
1. True
2. False
3. True
4. False
5. True

UNIT 7B THE LANGUAGE OF BUSINESS LAW

INCORPORATED AND UNINCORPORATED BUSINESSES

Exercise 1 *(p263)*
a. **incorporated businesses:** legal entity, private limited company, share, dividend, member, limited liability partnership, corporation tax, public limited company, limited liability.
b. **unincorporated businesses:** partnership, unlimited liability, partner, joint and several liability, sole trader.

Exercise 2 *(p263)*
a. partnership
b. public limited company
c. private limited company
d. limited liability partnership
e. sole trader

SOLE TRADERS

Exercise 1 *(p265)*
a. Setting up
b. Liability
c. Profits/losses
d. Employing staff
e. Tax
f. Management
g. Capital

Exercise 2 *(p266)*
a. set up
b. for
c. run
d. with
e. to
f. makes
g. bear
h. unlimited
i. personal
j. from
k. over

PARTNERSHIPS

Exercise 1 *(p266)*
a. register
b. legal entity
c. self-employed
d. profits
e. joint and several
f. creditor
g. assets
h. equity
i. salaried
j. sleeping
k. dissolved
l. resigns

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THE LANGUAGE OF DRAFTING

Exercise 1 *(p268)*

a. (2)
b. (3)
c. (1)

Exercise 2 *(p268)*

a. (2)
b. (1)
c. (3)
d. (5)
e. (4)

Exercise 3 *(p269)*

a. schedule
b. whatsoever
c. Annexed
d. context
e. respective

Exercise 4 *(p269)*

a. hereto
b. hereof
c. respective
d. annexed
e. former
f. whatsoever
g. thereof

Exercise 5 *(p270)*

a. notice
b. expulsion
c. determine
d. retirement
e. provisions
f. by reason of
g. dissolution
h. commencement
i. ceases
j. resignation
k. subject to
l. duration
m. majority
n. survivors

Exercise 6 *(p271)*

a. True
b. False
c. False
d. True
e. False
f. False
g. True

Exercise 7 *(p272)*

a. Proportions means rates, usually expressed as a percentage.
b. Determined means decided.
c. Entitled to means to have the right to something.
d. To draw means to take money from an account.
e. Aggregate means total.

THE REGISTER OF LETTER WRITING

Exercise 1 *(p272)*

a. contributing
b. share any profits
c. liable
d. partnership debts/debts of the partnership
e. draw £500 a month each/have monthly drawings of £500
f. retirement age as being 60
g. expulsion from/expelling a partner from
h. dissolve

COMPANIES

Exercise 1 *(p274)*

a. incorporated businesses
b. legal entity
c. disclose
d. members
e. limited liability
f. corporation tax
g. income tax
h. directors
i. dividend
j. company secretary
k. single-member company
l. share capital

INCORPORATING A COMPANY

Exercise 1 *(p276)*

a. sole
b. liability
c. entity
d. incurred
e. off-the-shelf
f. incorporate
g. memorandum of association
h. registered office
i. objects
j. articles of association
k. subscribers
l. compliance

LISTENING

Exercise 1 *(p277)*

a. Outback Adventures Ltd
b. 15 London Road, Oxton, Hapshire, OX5 4HJ
c. No
d. 01482 685341
e. No
f. Alice Baker
g. 64 Green Lane, Lettford, Hapshire, OX37 3FS
h. Ms
i. *See page 442 at the end of the Answer Key.*

PAPERWORK

Exercise 1 *(p278)*

See page 440 at the end of the Answer Key.

Exercise 2 *(p280)*

a. name
b. registered office
c. objects
d. liability
e. share capital
f. subscribers

Exercise 3 *(p281)*

See page 442 at the end of the Answer Key.

SHARES AND SHARE CAPITAL

Exercise 1 *(p282)*

a. £300,000
b. £1
c. 200,000
d. 100,000
e. 160,000
f. 80p

LIMITED LIABILITY PARTNERSHIPS

Exercise 1 *(p283)*

a. It became possible to set up a limited liability partnership in the UK in April 2001.
b. Accountancy firms and law firms like to use this particular structure for their business.
c. A limited liability partnership has to send an annual return and accounts to Companies House each year.
d. Someone knows that a business is a limited liability partnership because the name of the partnership must end with LLP.
e. An LLP is taxed as a partnership.
f. A limited liability partnership must have at least two designated members.

THE LANGUAGE OF DRAFTING

Exercise 1 *(p284)*

a. to
b. of
c. in
d. with
e. under
f. at

Exercise 2 *(p284)*

a. (9)
b. (5)
c. (7)
d. (4)
e. (1)
f. (6)
g. (2)
h. (3)
i. (8)

Exercise 3 *(p285)*

a. take effect
b. determine
c. subsist
d. In the event that
e. prior
f. benefit
g. consent
h. ratify
i. indemnify

Exercise 4 *(p285)*

a. False
b. True
c. True
d. True
e. True

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USING YOUR KNOWLEDGE

Collocation review *(p286)*

a. considered
b. declared
c. fluctuated
d. unlimited
e. disclose
f. settled
g. go
h. issued/allotted
i. take
j. record

Vocabulary review *(p286)*

a. expel
b. invest
c. certificate
d. nominal/par/face
e. several
f. incorporate/register
g. entity/personality
h. drawings
i. subscribers
j. objects

Preposition review *(p287)*

a. in
b. as
c. to
d. on
e. of
f. at
g. of
h. to
i. to
j. on/upon

TOLES HIGHER EXAM PRACTICE

Exercise 1 *(p288)*

1. (C)
2. (A)
3. (E)
4. (D)
5. (B)

Exercise 2 *(p288)*

1. (C)
2. (A)
3. (E)
4. (D)
5. (B)

Exercise 3 *(p289)*

1. incorporated
2. entity
3. members
4. single
5. minimum
6. limited
7. register/file
8. memorandum
9. rules
10. comply

Exercise 4 *(p290)*

1. He was made redundant
2. 24 months
3. A private limited company
4. An off-the-shelf company
5. Exclusive Art Ltd
6. Paul Evans and his wife, Judith Evans
7. No
8. The issued share capital
9. He uses his home address
10. The certificate of incorporation

UNIT 8 MODERN LETTER WRITING

THE LAYOUT OF A LETTER

Exercise 1 *(p293)*

a. Sender's address
b. The date
c. Recipient's details
d. Subject line/the salutation
e. The salutation/subject line
f. The body of the letter
g. The complimentary close
h. The signature
i. Printed signature block

Exercise 2 *(p294)*

a. The letterhead
b. The date
c. Reference
d. Recipient's details
e. Subject line/the salutation
f. The salutation/subject line
g. The body of the letter
h. The complimentary close
i. The signature
j. Printed signature block

DATES

Exercise 1 *(p295)*

a. UK
b. US
c. US
d. UK
e. US
f. UK
g. UK
h. US
i. UK
j. UK
k. US

SALUTATIONS

Exercise 1 *(p297)*

a. Ms Slater
b. Sir or Madam/Sirs
c. Mattheis
d. Ms Gabanna
e. Ms Wallis and Mr Dongahue
f. Dr Barley
g. Sir or Madam/Sirs
h. Sir or Madam
i. Mr and Mrs Simpson
j. Mrs Robson
k. Madam

COMPLIMENTARY CLOSE

Exercise 1 *(p298)*

a. Yours sincerely
b. Yours faithfully
c. Yours sincerely
d. Yours sincerely
e. Yours faithfully
f. Yours faithfully
g. Yours sincerely
h. Yours sincerely
i. Yours faithfully

SUBJECT LINES

Exercise 1 *(p301)*

a. Letter 3
b. Letter 1
c. Letter 2

PUTTING A LETTER TOGETHER

Exercise 1 *(p303)*

1. b
2. f
3. j
4. h
5. l
6. d
7. a
8. g
9. i
10. e
11. c
12. k

THE REGISTER OF LETTER WRITING

Exercise 1 *(p304)*

a. (3)
b. (2)
c. (1)

Exercise 2 *(p305)*

a. (1)
b. (3)
c. (1)
d. (3)
e. (2)

Exercise 3 *(p306)*

a. (4)
b. (8)
c. (2)
d. (1)
e. (3)
f. (5)
g. (7)
h. (6)

Exercise 4 *(p307)*

a. consider
b. earlier/above
c. concerning/regarding
d. ask that
e. buyers
f. as soon as possible

Exercise 5 *(p307)*

a. confirms this
b. waived
c. breach
d. have failed to make your payments
e. your creditors
f. liable

THE CONTENT OF THE LETTER

Exercise 1 *(p308)*

a. We **are** writing **to** confirm that...
Thank you for **your** letter **of/dated** 12 June.
With reference **to** our telephone conversation...

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b. We are **pleased** to **inform** you that...
I am **pleased** to **tell** you that...
c. **Unforunately/Regrettably...**
We **regret** to **inform** you that...
I am **afraid/sorry...**
d. We **would** be **grateful** if **you could/would...**
I would **appreciate** it **if** you could...
Please/Kindly...
e. **I am sorry** about the delay **in** replying.
We **apologise** for any **inconvenience caused.**
Please **accept** our **apologies.**
f. I **enclose...**
Please find **enclosed...**
g. **If** you have any **questions,** please **do not hesitate** to **contact** us.
If we **can** help **in any** way, **please** let **us know.**
I look **forward** to **hearing from** you.

TYPICAL SENTENCES IN LEGAL LETTERS

Exercise 1 *(p310)*

a. I act on behalf of...
b. I am instructed that...
c. I am writing to...
d. If I do not hear from you within 14 days of the date of this letter, I am instructed to start legal proceedings immediately.
e. I look forward to hearing from you as soon as possible.

LETTER WRITING CLINIC

Exercise 1 *(p312)*

a. (6)
b. (9)
c. (3)
d. (2)
e. (1)
f. (10)
g. (4)
h. (8)
i. (5)
j. (7)

Exercise 2 *(p314)*

a. the
b. provide/supply
c. trips
d. for/in respect of
e. proof
f. My client requests a full account of how his funds have been used.
g. advised
h. court
i. incur
j. Please confirm as soon as possible that you have received this letter.

CORRECTING COMMON MISTAKES IN LETTER WRITING

Exercise 1 *(p315)*

a. (5)
b. (2)
c. (3)
d. (4)
e. (1)

Exercise 2 *(p315)*

a. Dear
b. instructed, Mr
c. requesting, received, response
d. received, enclosed
e. resolved/settled, start

Exercise 3 *(p316)*

a. information
b. to
c. said
d. explain to me
e. start to build

Exercise 4 *(p316)*

a. (1)
b. (5)
c. (3)
d. (2)
e. (4)

Exercise 5 *(p316)*

a. hereby
b. abovementioned
c. forthwith
d. hereto
e. hereunder

Exercise 6 *(p317)*

a. act
b. his/her/the
c. conduct, immediately
d. attached/enclosed
e. requested

Exercise 7 *(p317)*

a. provide
b. If
c. According to
d. obtain
e. perform
f. people
g. consider
h. ended
i. agreed
j. start
k. connected with
l. clear

Exercise 8 *(p318)*

a. damage
b. advice
c. insurance
d. evidence
e. evidence
f. compensation
g. proof
h. research

Exercise 9 *(p319)*

a. a lot of
b. some
c. policy
d. much
e. piece of
f. compensation
g. proof
h. a great deal

Exercise 10 *(p319)*

a. disturbance
b. admission
c. amendment
d. dismissal
e. response
f. abatement
g. distinction
h. loss

Exercise 11 *(p320)*

a. advice
b. response
c. journey
d. effect
e. proof

Exercise 12 *(p320)*

a. incorrect
b. correct
c. incorrect
d. correct
e. correct
f. incorrect
g. correct
h. incorrect

Exercise 13 *(p321)*

a. rate, take out
b. waste, incur
c. due, outstanding
d. dispute, pay
e. denies, find

Exercise 14 *(p321)*

a. to act <u>for</u> your behalf (on)
b. responsibility <u>of</u> your case (for)
c. currently <u>of</u> the rate (at)
d. placed <u>at</u> a client account (in)
e. audited <u>from</u> (by)
f. responsibility <u>of</u> (for)

Exercise 15 *(p322)*

a. of
b. to
c. for
d. as
e. to

Exercise 16 *(p322)*

a. in
b. of
c. with
d. to
e. on

TOLES HIGHER EXAM PRACTICE

Exercise 1 *(p323)*

1. on your behalf
2. denied/refuted
3. breached
4. liability
5. substandard work
6. start proceedings
7. further notice
8. be successful
9. as soon as possible
10. contact me

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***Exercise 2** (p324)*
1. dated 14 July 20XX
2. claim
3. dispute
4. grounds
5. suffered
6. none of my client's staff were
7. negligent
8. earnings
9. emotional distress
10. costs

UNIT 9A
THE LANGUAGE OF COMPANY LAW

WHO RUNS A COMPANY?

***Exercise 1** (p327)*
a. The employees are the people who work for the company.
b. The directors are the people who run the company.
c. An accountant deals with the financial paperwork of the company.
d. A company secretary makes sure that the legal requirements of the company are followed.
e. An auditor inspects all the financial records of the company.
f. Creditors are the people who the company owes money to.
g. Debtors are the people who owe money to the company.

***Exercise 2** (p328)*
a. shareholder
b. creditor
c. director
d. secretary
e. auditor
f. accountant
g. debtor
h. employees

AREAS OF COMPANY LAW

***Exercise 1** (p329)*
a. Directors' service agreements
b. Insolvency
c. Mergers
d. raising finance
e. Acquisitions
f. Incorporating companies
g. Restructuring companies
h. joint ventures
i. shareholders' agreements
j. directors' duties

***Exercise 2** (p330)*
1. e
2. b
3. g
4. d
5. a
6. i
7. c
8. h
9. f

DIRECTORS

***Exercise 1** (p331)*
a. (6)
b. (2)
c. (4)
d. (8)
e. (9)
f. (1)
g. (7)
h. (5)
i. (3)

***Exercise 2** (p332)*
a. True
b. True
c. True
d. False
e. False
f. False

COMPANY MEETINGS

***Exercise 1** (p333)*
a. The directors of the company attend board meetings.
b. The shareholders of the company attend company meetings
c. The minutes of a meeting are the written record of the meeting.
d. The chairperson controls the meeting.
e. An annual general meeting takes place once each year.
f. The abbreviation EGM means extraordinary general meeting.
g. This minimum number of people is called a quorum.
h. The two methods of voting at a company meeting are a show of hands and a poll.

***Exercise 2** (p334)*
a. quorum
b. minutes
c. annual general meeting
d. company meetings
e. adjourn
f. proxy
g. show of hands
h. extraordinary general meeting
i. board meetings
j. convene
k. poll
l. chairperson

***Exercise 3** (p335)*
a. True
b. False
c. True
d. False
e. False

***Exercise 4** (p336)*
a. motion
b. passed/carried
c. ordinary resolution
d. notice
e. special resolution
f. unanimously
g. written resolutions

COMPANY FINANCE – A CASE STUDY

***Exercise 1** (p337)*
Verbs: to borrow, to finance, to lend, to repay, to grant, to default (defaults)
Nouns: asset, loan, guarantee, charge, mortgage, security

***Exercise 2** (p337)*
a. borrow
b. lend
c. loan
d. repay
e. asset
f. finance
g. guarantee
h. Security
i. mortgage
j. defaults
k. charge
l. grant

***Exercise 3** (p338)*
a. After
b. by
c. for
d. from
e. on
f. of

***Exercise 4** (p339)*
a. This is an unsecured creditor.
b. This is a secured creditor.
c. This is a secured creditor.
d. This is an unsecured creditor.
e. This is an unsecured creditor.

CLOSING A COMPANY

***Exercise 1** (p339)*
a. To strike off a company means to remove a company from the central register of companies.
b. To liquidate a company means to formally close a company.
c. The adjective that describes a company which is able to pay all of its debts is 'solvent'.
d. The phrasal verb that has the same meaning as 'to liquidate' is 'to wind up'.
e. The liquidator has the task of winding up a company.
f. To realise assets means to sell those assets.
g. An insolvent company is a company which does not have enough money to pay its debts.

***Exercise 2** (p341)*
a. insolvency practitioner
b. solvent
c. members' voluntary liquidation
d. liquidate: wind up
e. strike off
f. insolvent
g. liquidator
h. realise
i. dissolved

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INSOLVENT COMPANIES

Exercise 1 *(p342)*

a. due
b. insolvent
c. Insolvency
d. proceedings

Exercise 2 *(p343)*

a. administrator
b. manage
c. benefit
d. going concern

Exercise 3 *(p343)*

a. debt
b. charge
c. receiver
d. subject to

Exercise 4 *(p343)*

a. resolution
b. to wind up
c. realise
d. proceeds

Exercise 5 *(p343)*

a. presents
b. winding-up petition
c. grounds
d. Official Receiver

TOLES FOUNDATION EXAM PRACTICE

Exercise 1 *(p345)*

1. (D)
2. (C)
3. (B)
4. (A)
5. (B)

Exercise 2 *(p345)*

1. *
2. b
3. g
4. a
5. e
6. h
7. c
8. f
9. d

Exercise 3 *(p346)*

1. As a director I must **to** exercise the duty of care and skill.
2. In my opinion, this motion is not **for** the best interests of the company.
3. At the meeting the shareholders passed the resolution **unanimous.**
4. The bank will lend us the money but it wants security **of** the loan.
5. Our non-executive director knows about this and she will give us **an** advice.

UNIT 9B THE LANGUAGE OF COMPANY LAW

PEOPLE CONNECTED WITH A COMPANY

Exercise 1 *(p349)*

a. (6)
b. (7)
c. (2)
d. (4)
e. (1)
f. (5)
g. (8)
h. (3)

Exercise 2 *(p349)*

a. shareholders
b. directors
c. company secretary
d. employees
e. accountant
f. debtors
g. creditors
h. auditor

WORKING IN COMPANY LAW

Exercise 1 *(p350)*

a. incorporating
b. dispute
c. employment
d. insolvency
e. formations
f. raising
g. acquisitions
h. resolutions
i. statutory

Exercise 2 *(p350)*

a. Advising on methods of raising finance
b. Drawing up and advising on shareholders' agreements
c. Giving advice on voting procedures at meetings and drafting resolutions
d. Drafting directors' service agreements
e. Advising on company insolvency procedures
f. Dealing with mergers and acquisitions
g. Dealing with joint ventures
h. Dealing with company formations and restructuring a company

DIRECTORS

Exercise 1 *(p352)*

a. appoint
b. serve
c. remove
d. classed
e. accustomed
f. exercise
g. improperly
h. disqualification

Exercise 2 *(p353)*

a. You must at least one director in a private limited company.
b. The company may be liable to pay him some compensation or damages.
c. He is a non-executive director. He has the same legal responsibilities as other directors.
d. Yes, he is a shadow director.
e. Fiduciary duty means that you must act in good faith and in the interests of the company as a whole.

Exercise 3 *(p354)*

a. (5)
b. (1)
c. (3)
d. (4)
e. (2)

LISTENING

Exercise 1 *(p354)*

a. case law
b. because they are in a position of trust and confidence in relation to the company
c. 2006
d. so that the law is made clear for directors
e. seven
f. the success of the company
g. the individual director's level of specialist knowledge
h. conflicts of interest
i. his or her interest
j. a fine

COMPANY MEETINGS

Exercise 1 *(p356)*

a. extraordinary
b. have
c. convene
d. elect
e. show
f. poll
g. resolution
h. taking
i. pass
j. proposed
k. unanimously
l. proxy

Exercise 2 *(p357)*

a. False
b. False
c. True
d. False
e. True
f. True
g. False

Exercise 3 *(p358)*

a. held
b. accounts
c. auditors
d. directors
e. Registered
f. member
g. proxy
h. poll

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INSOLVENCY

Exercise 1 *(p359)*

a. (2)
b. (8)
c. (6)
d. (4)
e. (5)
f. (1)
g. (3)
h. (7)

Exercise 2 *(p360)*

a. nature
b. IP
c. No.
d. c/o
e. Petition
f. effects
g. deliver up

Exercise 3 *(p361)*

a. False
b. True
c. True
d. False
e. True

Exercise 4 *(p362)*

a. in
b. into
c. into
d. in
e. into
f. into

WHO GETS THE ASSETS?

Exercise 1 *(p362)*

a. prevent
b. collect
c. sell
d. raise
e. pay
f. exist

Exercise 2 *(p363)*

a. (4)
b. (2)
c. (6)
d. (7)
e. (5)
f. (3)
g. (1)

USING YOUR KNOWLEDGE

Collocation review *(p364)*

a. convening
b. passed/carried
c. raising
d. petition
e. take
f. remove
g. appointed
h. adjourn
i. put/placed
j. realising

Vocabulary review *(p364)*

a. motion
b. minutes
c. proceeds
d. quorum
e. auditors
f. poll
g. shadow
h. merger
i. acquisition
j. exclusive

Preposition review *(p365)*

a. into
b. from
c. at
d. in
e. on
f. with
g. in
h. in
i. with
j. to

TOLES HIGHER EXAM PRACTICE

Exercise 1 *(p366)*

1. (B)
2. (C)
3. (D)
4. (A)
5. (A)
6. (D)
7. (B)
8. (C)
9. (A)
10. (D)

Exercise 2 *(p366)*

1. (D)
2. (B)
3. (E)
4. (A)
5. (C)

Exercise 3 *(p367)*

1. difficulties
2. grounds
3. dissolved
4. manage
5. concern
6. proceeds
7. settle
8. pass
9. realising
10. ceases

UNIT 10A UNDERSTANDING CONTRACTS (2)

SOME MORE TYPICAL CONTRACT CLAUSES

Exercise 1 *(p372)*

a. (5)
b. (1/3)
c. (4)
d. (7)
e. (2)
f. (6)
g. (1/3)

Exercise 2 *(p372)*

a. Creative work
b. copyright
c. author
d. freelance
e. commission
f. termination
g. Confidential
h. disclose
i. term
j. expiration
k. non-disclosure
l. intellectual property

SOME IMPORTANT COMMERCIAL VOCABULARY

Exercise 1 *(p373)*

a. (8)
b. (3)
c. (11)
d. (4)
e. (7)
f. (2)
g. (5)
h. (1)
i. (6)
j. (12)
k. (9)
l. (10)

Exercise 2 *(p374)*

Money and payment: insolvent, invoice, budget, liquidator, instalments, owe.
Goods: perishable, warehouse, merchandise, premises, store, serial number.

Exercise 3 *(p374)*

a. instalments
b. budget
c. store
d. warehouse
e. perishable
f. insolvent
g. owe
h. invoice
i. liquidator
j. premises
k. serial number
l. merchandise

TERMINATION CLAUSES

Exercise 1 *(p375)*

a. end
b. terminated
c. gives
d. writing
e. commits
f. small
g. serious
h. money
i. protect
j. lose
k. stops

Exercise 2 *(p376)*

a. (4)
b. (9)
c. (3)
d. (10)
e. (5)
f. (2)
g. (8)
h. (6)
i. (1)
j. (7)

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***Exercise 3** (p376)*

a. Agreement
b. written
c. material
d. ceases

INTELLECTUAL PROPERTY CLAUSES

***Exercise 1** (p377)*

a. the wishes of the parties
b. transfer ownership of those rights
c. grant a licence
d. assigns assigns IP rights
e. buys IP rights from someone
f. grants a licence to use his or her IP rights
g. is allowed to use someone's intellectual property for a specific period of time
h. right that some third party has in the intellectual property
i. break the law concerning that IP right
j. the public domain

***Exercise 2** (p378)*

a. intellectual property rights
b. assign
c. licence
d. grant
e. infringement
f. licensor
g. assignor
h. infringe
i. assignee
j. licensee
k. public domain
l. encumbrance

RETENTION OF TITLE CLAUSES

***Exercise 1** (p379)*

a. True
b. False
c. True
d. False
e. True
f. True

***Exercise 2** (p380)*

a. from
b. to
c. of
d. within
e. until

WARRANTY, INDEMNITY AND FORCE MAJEURE CLAUSES

***Exercise 1** (p380)*

a. for
b. in
c. on
d. from
e. under

***Exercise 2** (p381)*

a. INDEMNITY
b. ARISES FROM
c. COMPENSATE
d. TAKE OUT
e. POLICY
f. INDEMNIFICATION
g. FORCE MAJEURE
h. UNFORESEEABLE

***Exercise 3** (p381)*

a. warranty
b. indemnity
c. compensate
d. take out
e. policy
f. arises from
g. indemnification
h. force majeure
i. unforeseeable

MORE ABOUT FORCE MAJEURE CLAUSES

***Exercise 1** (p382)*

a. (4)
b. (7)
c. (1)
d. (3)
e. (5)
f. (6)
g. (2)

***Exercise 2** (p383)*

a. excused
b. unforeseeable
c. supervening
d. rely on
e. Act of God
f. force majeure

***Exercise 3** (p384)*

a. control
b. notify
c. breach
d. delay

TOLES FOUNDATION EXAM PRACTICE

***Exercise 1** (p386)*

1. (A)
2. (B)
3. (B)
4. (A)
5. (A)

***Exercise 2** (p386)*

1. (J)
2. (B)
3. (F)
4. (H)
5. (A)
6. (E)
7. (I)
8. (G)
9. (D)
10. (C)

***Exercise 3** (p387)*

E sending a document in the correct, formal way
C money to pay someone for a loss
I amounts of money that a person owes to other people
F serious, significant
A start
G violation
B duration, the period of time for which a contract is valid
H intentional, something that a person chooses to do
D end
J property, including money and equipment

UNIT 10B UNDERSTANDING CONTRACTS (2)

RISK AND TITLE

***Exercise 1** (p389)*

a. sale
b. protect
c. property
d. debtor
e. premises
f. instalments
g. retains
h. particular

***Exercise 2** (p390)*

a. incorporate
b. pitfalls
c. perishable
d. liquidator
e. precaution
f. expressly

***Exercise 3** (p391)*

a. It is a clause in a contract that allows the seller to retain ownership of goods until they are paid for.
b. The seller also has the right to enter onto the buyer's premises to recover the goods.
c. If a buyer has not paid for goods it is often because the buyer's business is insolvent.
d. The goods might go off.
e. No, statute does not assist a seller who has not included a ROT clause in his or her contract for the sale of goods.
f. The court would describe this information as a post-contractual term.
g. The briefing notes suggest that a seller puts a serial number on his or her goods.
h. The buyer might say that the goods have been mixed with another product to create a new item that cannot be returned.

***Exercise 4** (p392)*

a. True
b. False
c. False

***Exercise 5** (p393)*

a. in
b. to
c. until
d. of

***Exercise 6** (p393)*

a. with
b. at
c. in
d. of

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Exercise 7 *(p393)*

a. to
b. from
c. by
d. in

Exercise 8 *(p394)*

a. Notwithstanding
b. provision
c. title
d. price
e. due

INTELLECTUAL PROPERTY AND CONFIDENTIAL INFORMATION

Exercise 1 *(p394)*

a. This is the IP clause
b. This is the non-disclosure clause

Exercise 2 *(p395)*

a. False
b. True
c. True
d. False

Exercise 3 *(p395)*

a. as
b. at
c. with
d. for
e. onto
f. to
g. in
h. of
i. between
j. from

Exercise 4 *(p397)*

a. (2)
b. (6)
c. (8)
d. (10)
e. (5)
f. (9)
g. (4)
h. (1)
i. (7)
j. (3)

Exercise 5 *(p398)*

a. The supplier referred to in this clause is Lydia Barlow.
b. The company referred to in this clause is Pure Adventure Travel Ltd.
c. I must look in Schedule A to find out how much the company will pay to the supplier for producing the brochure.
d. The clause gives the company full ownership of the copyright material.
e. The word is 'assigns'.
f. No, the company is not limited to using the copyright material in the places listed in this clause.
g. The phrase is 'not limited to'.
h. Yes, this clause does permit it.

Exercise 6 *(p398)*

a. disclose
b. third
c. whatsoever
d. limited
e. expiration

WARRANTIES AND INDEMNITIES

Exercise 1 *(p399)*

Clause 1 is the warranty.
Clause 2 is the indemnity.

a. warrants
b. disclosed
c. indemnifies
d. caused

Exercise 2 *(p400)*

a. ruinous financial experiences
b. who owns the copyright
c. amend
d. grant a licence
e. defamatory
f. assignment
g. warranties
h. indemnity

Exercise 3 *(p402)*

a. True
b. True
c. True
d. False
e. True

Exercise 4 *(p402)*

a. warrants
b. disclosed
c. further
d. assigned
e. domain

Exercise 5 *(p403)*

a. indemnified
b. party
c. injury
d. costs
e. allegation

Exercise 6 *(p403)*

a. under
b. in
c. of
d. as
e. to

Exercise 7 *(p403)*

a. against
b. from
c. of
d. by
e. as

TERM AND TERMINATION

Exercise 1 *(p404)*

a. run
b. enter
c. states
d. agree
e. negotiate
f. giving

Exercise 2 *(p405)*

1. The court refers to a very serious breach as 'a material breach'.
2. A minor breach is a less serious kind of breach.
3. A minor breach normally gives rise to a claim for damages.
4. The correct legal name for the solution that the party in breach gives is 'a remedy'.
5. A breach must be a threat to the purpose of the contract in order to be described as a material breach.

Exercise 3 *(p405)*

a. in
b. as
c. to
d. for
e. of

Exercise 4 *(p406)*

a. assets
b. without prejudice
c. remedy
d. notwithstanding
e. creditors
f. receipt of
g. suspend
h. ceases
i. due
j. subject to

Exercise 5 *(p407)*

a. False
b. True
c. False
d. True
e. True

FORCE MAJEURE

Exercise 1 *(p408)*

a. earthquake, flood, epidemic, drought, avalanche
b. mechanical failure, communications failure, electronic failure
c. rebellion, war, riot, civil unrest, acts of terrorism, sabotage, hi-jacking, strike, civil war, criminal acts, arson

Exercise 2 *(p409)*

a. for
b. under
c. from
d. of
e. to

Exercise 3 *(p409)*

a. control
b. limited
c. performance
d. terminate
e. notice

USING YOUR KNOWLEDGE

Collocation review *(p410)*

a. free
b. implied
c. material
d. remedy
e. retain
f. provided
g. disclose
h. take out
i. term
j. rely

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Vocabulary review *(p410)*

a. retention
b. assign
c. warrants
d. audit
e. property
f. monies
g. indemnification
h. strike
i. termination
j. force

Preposition review *(p411)*

a. for
b. at
c. against
d. beyond/outside
e. at
f. for
g. by
h. of
i. in
j. as

TOLES HIGHER EXAM PRACTICE

Exercise 1 *(p412)*

1. (E)
2. (C)
3. (B)
4. (A)
5. (D)

Exercise 2 *(p412)*

1. only/exclusively
2. getting back, taking possession of
3. kept in a particular place for a period of time
4. guarantees, promises
5. a third party interest

UNIT 3A

Exercise 2 *(p82)*

I	N	T	E	N	D	R	B	F	P	E	A	A	F	L
L	X	P	I	N	T	E	I	P	R	O	T	C	A	F
A	C	C	E	P	T	A	N	C	E	E	K	T	A	A
P	A	F	O	F	E	N	D	R	C	L	V	C	C	X
S	S	F	F	N	R	F	I	E	E	T	B	O	T	T
E	E	C	F	A	T	L	N	C	D	U	E	B	K	R
D	T	O	E	C	W	R	G	Q	E	F	N	I	J	E
L	A	S	R	K	A	C	A	O	N	M	E	T	O	B
H	S	I	O	B	I	T	E	C	T	D	F	E	F	I
O	D	E	T	R	I	M	E	N	T	E	I	R	F	N
R	A	T	C	L	I	R	H	F	A	T	T	A	E	D
D	E	T	R	P	N	B	O	R	V	R	A	T	R	A
S	O	C	O	N	S	I	D	E	R	A	T	I	O	N
F	S	O	U	R	C	E	I	N	T	L	A	S	R	R
F	A	R	A	T	I	O	Z	S	L	A	B	I	T	E

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Claim Form

Click here to clear your data after printing

In the Chatsworth County Court	
	for court use only
Claim No.	6QZ070C2
Issue date	14 December 20XX

Claimant
Stephen Blakely
47 Rose Terrace
High Bennington
Chatsworth
CH8 5PG

SEAL

Defendant(s)
Simply Kitchens Ltd

Brief details of claim
The defendant contracted to fit a kitchen in June of this year. The defendant admits that the fridge that was supplied as part of the kitchen was defective.

The fridge has broken down twice and the defendant refuses to supply a new one. The claim is to cover the cost of a second company supplying and fitting a new fridge and for the cost of food that was spoiled during the dispute with the defendant.

Value
£650

Defendant's name and address
Simply Kitchens Ltd
(Registered Office)
Unit 7
Fratton Park Industrial Estate
High Boldon
Bradford
BR40 1DD

	£
Amount claimed	£650
Court fee	£70
Solicitor's costs	none
Total amount	£720

The court office at

is open between 10 am and 4 pm Monday to Friday. When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number.

NI Claim form (CPR Part 7) (01.02) *Printed on behalf of The Court Service*

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UNIT 7B

Exercise 1 *(p278)*

Companies House

10

First directors and secretary and intended situation of registered office

Please complete in typescript, or in bold black capitals.
CHWP000
Notes on completion appear on final page

Company Name in full Outback Adventures Ltd

Proposed Registered Office 15 London Road
(PO Box numbers only, are not acceptable)

Post town Oxton

County / Region Hapshire Postcode OX5 4HJ

If the memorandum is delivered by an agent for the subscriber(s) of the memorandum mark the box opposite and give the agent's name and address.

Agent's Name

Address

Post town

County / Region Postcode

Number of continuation sheets attached 0

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

Peter Craig

Tel 01482 685341

DX number DX exchange

Companies House receipt date barcode
This form has been provided free of charge by Companies House

v 10/03

When you have completed and signed the form please send it to the Registrar of Companies at:
Companies House, Crown Way, Cardiff, CF14 3UZ DX 33050 Cardiff
for companies registered in England and Wales
or
Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB
for companies registered in Scotland DX 235 Edinburgh
or LP - 4 Edinburgh 2

Company Secretary (see notes 1-5)

Company name Outback Adventures Ltd

NAME *Style / Title Ms *Honours etc

* Voluntary details

Forename(s) Alice

Surname Baker

Previous forename(s)

Previous surname(s) Bradman

†† Tick this box if the address shown is a service address for the beneficiary of a Confidentiality Order granted under section 723B of the Companies Act 1985 otherwise, give your usual residential address. In the case of a corporation or Scottish firm, give the registered or principal office address.

Address †† 64 Green Lane

Post town Lettford

County / Region Hapshire Postcode OX37 3FS

Country England

I consent to act as secretary of the company named on page 1

Consent signature **Date**

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Directors (see notes 1-5)

Please list directors in alphabetical order

NAME *Style / Title	Dr
*Honours etc	
Forename(s)	Shane
Surname	Bradman
Previous forename(s)	
Previous surname(s)	
Address ††	87 Hunts Road
Post town	Oxton
County / Region	Hapshire
Postcode	OX2 6GP
Country	
Date of birth (Day Month Year)	14 07 1917
Nationality	Australian
Business occupation	Travel Consultant
Other directorships	None

†† Tick this box if the address shown is a service address for the beneficiary of a Confidentiality Order granted under section 723B of the Companies Act 1985 otherwise, give your usual residential address. In the case of a corporation or Scottish firm, give the registered or principal office address. ☐

I consent to act as director of the company named on page 1

Consent signature | Date

Directors (see notes 1-5)

Please list directors in alphabetical order

NAME *Style / Title	Mr
*Honours etc	
* Voluntary details Forename(s)	Peter Robert
Surname	Craig
Previous forename(s)	15 London Road
Previous surname(s)	
Address ††	
Post town	Oxton
County / Region	Hapshire
Postcode	OX5 4HJ
Country	England
Date of birth (Day Month Year)	21 11 1978
Nationality	
Business occupation	
Other directorships	

†† Tick this box if the address shown is a service address for the beneficiary of a Confidentiality Order granted under section 723B of the Companies Act 1985 otherwise, give your usual residential address. In the case of a corporation or Scottish firm, give the registered or principal office address. ☐

I consent to act as director of the company named on page 1

Consent signature | Date

This section must be signed by either an agent on behalf of all subscribers or the subscribers (i.e those who signed as members on the memorandum of association).

Signed		Date	
Signed		Date	
Signed		Date	
Signed		Date	
Signed		Date	
Signed		Date	
Signed		Date	

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UNIT 7B

Exercise 1 *(p277)*

	Director's details	Director's details
Full name, including title	Dr Shane Bradman	Mr Peter Robert Craig
Address	87 Hunts Road Oxton Hapshire OX2 6GP	15 London Road Oxton Hapshire OX5 4HJ
Date of birth	14 July 1979	21 November 1978
Nationality	Australian	British
Occupation	Travel Consultant	Managing Director
Director of other companies?	No	No

UNIT 7B

Exercise 3 *(p281)*

The Companies Acts 1985-89
Private Company Limited by Shares
Memorandum of Association
of

RP Computer Services Ltd

1. The company's name is RP Computer Services Ltd.
2. The company's registered office is to be situated in England and Wales.
3. The objects of the company are to carry on business as a general commercial company.
4. The liability of the members is limited.
5. The company's share capital is £100,000 divided into 100,000 ordinary shares of £1.00 each.
6. I, being the subscriber to this Memorandum of Association, wish to be formed into a company pursuant to this Memorandum and I agree to take the number of shares shown opposite my name.

Names and address of subscriber	**Number of shares taken by the subscriber**
Raj Patel 2 Cherryholt Road Chatsworth CH3 6GH	Twenty five thousand shares
Total shares taken	Twenty five thousand shares
Dated	XX/XX/20XX

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Audio transcripts

UNIT 1B
THE LEGAL PROFESSION

UNIT LISTENING

Trainee lawyer: My name is Rob Jones and I'm a trainee with a law firm. I've always wanted to be a solicitor and I can't imagine doing any other job. I started working here at Taylor Wallis a year ago. Taylor Wallis is a global law firm with its headquarters in the City of London. I studied law at Manchester University but I wanted to do my training contract in London because I'm interested in insolvency law and banking and I think the best positions with the top law firms are here. I think my parents were disappointed that I didn't become a barrister and work in chambers and wear a wig in court, but I wasn't interested in that at all!

With this law firm the two-year training contract is divided into four periods. Each six-month period is called a 'seat'. My first seat was in the corporate department. That really just means dealing with companies and businesses. I was involved in meeting clients, drafting documents and took part in some very high value deals. Of course, I had lots of support from the experienced people working on my team, we call them the principals, but I was surprised at how much responsibility they gave me.

My second seat was in the property department. This involved acting for clients who were buying and selling domestic and commercial property, much of it office buildings here in London. I was able to get some experience of conveyancing as well as a little landlord and tenant law when we dealt with rentals.

Next I will be moving into the intellectual property department. I'm really pleased about that, as it covers quite a few different areas of law and can involve famous clients. At the moment the department is dealing with a breach of copyright case for a famous musician.

I hope to stay with Taylor Wallis when I qualify as a lawyer next year. In fact, I'm looking forward to being based in London for most of my legal career.

EXAM EXERCISE LISTENING

L: Good morning everyone. My name is Helen Reay and I'm a solicitor in a local law firm. I'm here today because I understand that some of you are interested in a career in law and would like to ask me some questions. I've been working as a solicitor for over ten years now, so I'm probably in a good position to give you a bit of advice. Who would like to start?

S1: I'll start, if I may. I would like to ask about the training that you had to do to become a lawyer. I know that you have to go to university and do a law degree. But what happens next?

L: Well, let's make it clear. When you talk about training to become a lawyer you are talking about two different professions. If you want to work as a lawyer you must first of all choose whether you want to be a solicitor or a barrister. The training for each profession is different.

S2: Really? I thought that both branches of the profession were required to do a law degree and then barristers had to find a place in chambers and solicitors had to do some training with a law firm.

L: Not exactly. It might surprise you to know that it's not actually a requirement in the UK for a lawyer to have a law degree. My degree is in economics actually, although most of my colleagues in the office do have a degree in law. I studied economics for three years and then I took a one-year course at the same university, now called the Post-Graduate Diploma in law. It's a kind of conversion course to law for people with degrees in other subjects. It was a difficult year. It was very intensive but very enjoyable too. I learned a lot.

S1: So a law firm will be happy to employ me if I have a degree in pyschology? That's the subject that I really would like to take but I didn't think it would be possible if I want a career in law.

L: Yes, that's right. So long as you take the conversion course you'll be OK. Law firms like diversity. It gives them people with a wide range of skills and knowledge.

S2: That's interesting. But I want to take a law degree and become a lawyer in the traditional way. If someone wants to be a barrister, is a law degree the best qualification for them?

L: The usual route for both solicitors and barristers is to start with a law degree. The law degree in the UK is known as the LLB. This is the Bachelor's degree in law. The Masters degree is called the LLM. The LLB takes three years and is ideal for both solicitors and barristers. After that the training and the exams are different for the two professions.

S1: What do solicitors do after their first degree? Solicitors don't speak in court, so I suppose they don't need to learn how to do that, do they?

L: I'm not surprised that you have said that because it's a common misconception that only barristers speak in court. But it's actually not true. Solicitors are required to do a year of practical training after their degree and that training includes advocacy, which is the skill of speaking on behalf of a client in court. If you choose to be a solicitor you will have to do this extra year of training at university. It's called the Legal Practice Course.

S1: What skills do they teach on the course?

L: A whole range of things. As we've already said, advocacy. You need to be confident as a solicitor when speaking in court. You are taught how to draft documents correctly. Some negotiation skills. And of course, client interviewing. Being able to interview a client well is extremely important.

S2: That all sounds good. But I have a worry about something. I'm not very good at maths. Will that be a problem?

L: Not really. The Legal Practice Course does cover business management skills and you will be tested on your ability to keep accounts. But that's something that you'll just have to learn if you really want to be a solicitor. I'm not very good at that side of things either I'm afraid, but I soon got the hang of it.

S1: And after the Legal Practice Course, are you a qualified solicitor?

L: I'm afraid not. You still need to get a training contract with a law firm and for many students that's the difficult part. The truth is that our universities produce more law graduates than we need, so getting a training contract with a law firm is a competitive business. The training contract gives you two years of practical experience working as a solicitor. When the two years are completed you are a qualified solicitor and your name is added to the list of solicitors who are allowed to practise law – or, to give the list its correct name, the roll. The roll is kept at the headquarters of the Law Society of England and Wales, which is in London. And one more thing. Remember, qualifying as a solicitor or as a barrister is expensive. The Legal Practice Course currently costs around £7000 so you will have to pay that on top of the cost of your degree. But don't let me put you off a career in law. I found my training very hard and very expensive but I haven't regretted my choice of career at all.

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UNIT 2B
THE LANGUAGE OF BANKING AND FINANCE

UNIT LISTENING

BM: Good morning Miss Finch. Thank you for coming in to see us today. I understand you'd like to take out a loan.

AF: Yes, that's right. I'd like to borrow £6000.

BM: OK. That shouldn't be a problem. I just need to go through the application form with you and get some information that we'll need to process your loan.

AF: OK.

BM: First of all some general details. We need to confirm that you are a full-time resident in this country?

AF: Yes, I live here in Chatsworth.

BM: Good. And do you have a bank account?

AF: Yes, my account is here with your bank. I've had it for about four years.

BM: Great. And do you have a regular income?

AF: Yes, I'm paid on the 26th of every month. My pay goes directly into my account.

BM: Good. We just needed to be clear about those points before we start. Now, I've got the application form up on the screen. This should just take a few minutes and we can process your loan immediately. First of all, what is the loan for?

AF: It's for home improvements, actually. I bought my house two years ago and it was fairly cheap because it was in a bad condition. I'd like to put in a new bathroom and a new kitchen. And I'd like to do something with the garden. It's in a bit of a bad state.

BM: Home improvements. OK. That's fine. And what amount would you like to borrow? Did you say ten thousand?

AF: No, just six thousand.

BM: That doesn't seem much for the list of jobs you mentioned. Will it cover everything you have in mind? Our interest rate is very good at the moment so you could probably go a little higher if you needed to.

AF: No, six will be fine. I've got quotes for everything from the builder and six covers it.

BM: Fine. You can always apply for more later on if you find that you need it. And what repayment period would you like? You can make your repayments over 24, 36, 60 or 120 months. That will affect the amounts of the monthly repayment of course. The payments will be considerably bigger over a shorter period of time.

AF: *I'd like to repay it over five years* if I can. So that would be 60.

BM: Good. 60 it is. Now we move on to personal details. Are you Miss or Mrs?

AF: Actually, I'm 'Ms'. Do you have that title on the form?

BM: Yes, we do. Ms. And your first name please?

AF: Alison

BM: And your surname?

AF: Finch

BM: Any middle name?

AF: No. Just plain Alison.

BM: Good. That's nice and easy. And your date of birth please, Ms Finch?

AF: 6 January 1979.

BM: OK. And do you have an email address?

AF: It's Alison.finch79@hotmail.com

BM: So there's a dot between the Alison and the Finch?

AF: Yes, that's right.

BM: Thanks. And your marital status please, Alison?

AF: I'm divorced. I've been divorced for two years now.

BM: OK. Any dependant children?

AF: Yes, one. I've got a little girl.

BM: So you're making this application by yourself? There's no other applicant?

AF: That's right.

BM: Have you been known by any other name over the last five years, Alison?

AF: No, Finch is my maiden name. I didn't change it when I got married. I've always been Alison Finch.

BM: OK. And now it's just contact details. You own your own house don't you? So you're not a tenant. How long have you been at your current address?

AF: Two years and one month.

BM: And your house number please?

AF: Number 39.

BM: And your postcode?

AF: CH5 9QJ.

BM: CH5 9QJ. Right. The computer is saying 39 Belle Vue Avenue, Chatsworth. Is that your address?

AF: Yes, that's right.

BM: Good. We're nearly done. The last thing is your telephone number. Do you have a home telephone?

AF: Yes I do. But it's on the blink at the moment actually. They're coming to look at it this afternoon. So you're better getting me on my mobile if you need to speak to me today. Anyway, my landline number is 0771 for Chatsworth, then 652 0309.

BM: Thanks. And your mobile? We shouldn't need it, but just in case.

AF: 0899 167 0325.

BM: Thank you. Well, that's all the info we need for the first page. Now for the next page.

EXAM EXERCISE LISTENING

RP: Good morning. It's 7am and you are listening to Central Radio, the radio station with the latest news and travel information for central London this Thursday morning. This is Karen Malloy with our weekly look at money and finance in the Thursday Money Programme. Today's celebrity guest is that well-known actress from the town of Westborough and London resident, Julie Barrie. Good morning Julie and welcome to Central Radio.

JB: Good morning Karen. It's nice to be here.

RP: It's great to have you as a guest on the money programme, Julie. Now, let's start at the very beginning of your financial life. You were born in Westborough in the north of England and your first job was at a local theatre. How much was your first salary?

JB: You couldn't really call it a salary, Karen, because I only worked one day a week and I was paid every Friday. When I was 17 I was still at college, but I got a Saturday job at the local theatre. I was an assistant to the stage manager, which was marvellous, because I was being paid for doing something that I loved. The pay was £4 a week, which I thought was a lot of money! I got it cash in hand, which would be unusual these days. I saved £2 a week by giving it to my dad to put into his bank account for me, and the rest I spent. I was quite sensible with money as a young person, but less so now, unfortunately. These days, if I see something I want, I usually buy it!

RP: And where did your open your first bank account? You're on TV all the time these days advertising the Glen Royal Bank so does that relationship go back to your early days as a saver?

JB: My first current account was actually with the London National Bank. My local branch was in the centre of London, in a street very near Trafalgar Square. It's not there any more. I walked past it the other day and the building is now a

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nightclub. The bank has closed most of its London branches because people do so much Internet banking and telephone banking these days. It's a shame. It was handy for my drama school in Shaftesbury Avenue. I used to go in and draw out £20 every Friday in the company of city businessmen. It made me feel very rich and important even though I wasn't at all! We had to go into the bank and queue to withdraw money in those days. It was in the 1970s, long before ATMs were around, which makes me feel very old. Most of the £20 was spent on rent. After paying the rent, I had about £4 left to live on for the week.

RP: Did you run up an overdraft? Most students do.

JB: Unfortunately, yes. When I got my first real acting job in the late 1970s I was quite badly in debt as a drama student. I had a loan of £3000, which I was paying off in instalments. I seem to remember they were £25 a month, which was a lot. I also had an overdraft. My limit was £100 so my overdraft stood at £100 most of the time I think. On one occasion I got a nasty letter from the bank because I'd exceeded my limit by £11. I never seemed to have any money!

RP: Not for long though. You got your first acting job in London at the age of 21, didn't you? Your financial situation must have improved somewhat.

JB: Yes it did. I got the part of Juliet in a production of Romeo and Juliet and suddenly I earned a lot more money. That must have been in 1978, the year I opened my first savings account. It was with the Glen Royal Bank. I chose them because their interest rates were very good and I opened a high interest account. I was saving for a house in London because the cost of renting was disgraceful, even in those days. I opened a savings account to get together the deposit I needed to buy the house, which was two and a half thousand. It was hard but I think it's even harder now. I don't know how young people can afford to live in London at all with prices the way they are.

RP: And did you save enough money to get your house in London?

A: Indeed I did. I still live in the house that I bought in 1983 in Notting Hill. I got my mortgage from the Glen Royal Bank. It was for £75,000, which I thought was a fortune at the time. The interest rate was fixed at about 5% as I remember for the first five years. After that it was going to go up. Luckily I got a part in a film in Hollywood in 1987 and I was able to pay off my mortgage completely.

RP: That must have been a relief to you. Paying the mortgage is most people's major financial worry. And how about saving for your retirement? Do you have a lot of money for your old age? Or do you plan to work forever?

JB: I plan to keep on working for as long as I am offered acting roles so I hope to keep on earning money for some time yet. I've invested in property all my life so that is my security for my old age. I plan to keep my house in London but I have two houses in France and one by the sea in Brighton so I can sell all three houses if I need to.

RP: I see. And how about your financial behaviour these days? Do you have a credit card, for instance?

JB: I have an American Express card. I cut all my other credit cards up because the interest rates on them are so high. I also use my debit cards a lot instead of carrying cash with me. I don't think it's safe for women to carry cash in big cities nowadays. I was mugged in New York a few years ago, so now I tend not to have more than £10 in my purse. I have a son, Jason, who is 18 this year. I used to keep money at home in case he needed it but now that he's 18 I just transfer it into his bank account. I normally do that using my bank's Internet banking service. It's marvellous. I often do my banking at 2am when I can't sleep.

RP: Yes, I think a lot of people do. And one final question, Julie. What's been your best purchase up until now? The best thing you've ever bought?

JB: I would say a work of modern art that I bought from an exhibition at Goldsmith's College in London. I had no money at the time and I had to borrow £60 from my parents to buy the painting. It took me two years to pay them back although luckily they were kind to me and they didn't charge me interest. The painting is insured for a million pounds now. That was definitely my best financial move, ever.

RP: Julie Barrie, thank you very much.

JB: Thank you.

UNIT 3B
THE LANGUAGE OF CONTRACT LAW

UNIT LISTENING

Professor: The subject of today's lecture is contract law and the different forms that a contract can take. Not all contracts are alike. In the UK legal system and in the USA, a legally binding contract can be created in several different ways. For example, a contract can be either oral or written. Most legal systems around the world accept the idea that a spoken agreement can be as valid as a written agreement. There is a third way to create a contract and that is in the form of a deed. Once we have established the form that a contract might take, we need to consider its scope. Contracts can be unilateral or bilateral in nature creating quite different obligations for the parties concerned.

All of these points require some explanation.

Let's begin with oral contracts. An oral contract is a spoken agreement. In most cases it's just as valid as a contract in writing. I am often asked if an oral contract would be binding if it were for a huge amount of consideration. Let's say a million pounds. The answer is, yes, it would be binding. It doesn't matter if a contract involves a large amount of money or not: a spoken contract is equally as binding upon the parties as a written one.

One of the most famous cases in this area of law is from the United States. In December 1983 a Texas company called Pennzoil agreed to buy another company called Getty Oil. The deal was done with a handshake but no contract was signed between the two companies. Pennzoil then announced the acquisition of Getty Oil.

However, a few weeks later, a third oil company called Texaco announced that it had bought Getty Oil. Remember, no written contract had ever been signed to say that Pennzoil had already bought Getty Oil. It seems that the people at Getty Oil felt that a handshake wasn't enough to seal such an important deal. However, when Pennzoil successfully sued on the grounds that Texaco had interfered in a legally binding contract they were awarded $10.6 billion in damages. This case shows that it would be a serious mistake to think that because there is no written agreement then there is no contract.

To move on now to written contracts, they have been in use since the time of the Romans, and with good reason. A written contract helps avoid disputes. When you have a written contract, both sides know the subject matter, terms and conditions of their transaction. A written contract is usually very detailed but will generally include basic information such as:

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- the parties' names
- the parties' obligations
- anything that might happen that will excuse performance of the contract, and
- the result of a failure of one of the parties to perform.

This is the most common type of contract and the one that you will come across most often in your professional lives.

If we now look at deeds, a deed is a contract that must be in written form in order to be legally valid. It usually grants a right to do something or to have something. A deed used to need a seal (often made from red wax) to make it valid but these days a signature is usually enough. Any contract for the sale of land must take the form of a deed.

And finally, we must consider whether a contract is bilateral or unilateral. The more common of the two is a bilateral contract. This is an agreement in which each of the parties to the contract makes a promise to the other party. For example, in a contract for the sale of a car, the buyer promises to pay the seller in exchange for the seller's promise to give ownership of the car. In a unilateral contract, only one party to the contract makes a promise. A typical example is the reward contract: Anna promises to pay a reward to Kit, if Kit finds Anna's dog. Kit is not obliged to find the dog, but Anna is obliged to pay the reward if Kit does find the dog.

You will need to read about the formation of contracts in your textbooks in time for tomorrow's seminar. Please look at pages 335 –387 and be prepared to answer questions on this subject tomorrow.

Thank you.

EXAM EXERCISE LISTENING

P: Good morning everyone. The topic of today's seminar is consideration in contract law. I hope that everyone's read the relevant cases in your textbook. I asked you to read the 25 pages up to page 285. Let's begin with a simple question. Can someone please name the essential elements of a contract according to English law?

S1: Intention to create a legal relationship, offer, acceptance and consideration.

P: Good. To make a valid contract all of those things must be present. Over the past few weeks we have looked at three of those elements. Today we will look at consideration. Let me start by asking you to listen to the story of a dispute between two parties. Mr Brown is worried about the environment. He is afraid that pollution and global warming are destroying our planet. Therefore, he decides to do something about his worries. He decides to hold an event to publicise the problem. He calls the event, 'Save the Planet Day'. He decides to hold his event in St James's Park, near his home in London, on the 5 April. He contacts a marketing company in Manchester. The name of the marketing company is Sellfast UK. Their job is to advertise the event and to attract companies to attend. Mr Brown has a telephone conversation with Sellfast UK. The manager of Sellfast UK tells Mr Brown that the cost of promoting the event is £5000. Mr Brown agrees to pay this and pays a deposit of £500 by credit card over the phone. So, a contract now exists between Mr Brown and Sellfast UK. Am I correct?

S2: Yes. All of the elements of a contract are present. One of the parties is a business, so according to case law a court will assume that there was an automatic intention to create a legal relationship.

S1: And there was clear offer and acceptance. The parties are clear as to the terms of the contract and they have both agreed to them.

P: And consideration?

S2: Yes, there has been an exchange of consideration. Mr Brown has agreed to pay a certain price. And Sellfast UK has agreed to carry out a service in return. Therefore, the parties have a contract.

P: Good. Let's move on and complicate the situation a little. Let's say that Sellfast UK does the job very well. Hundreds of people have promised to come to the event, including a few big companies. The best news is that a major catering company called the Ethical Food Company is considering providing free food for everyone who comes to the event. Mr Brown is delighted. He phones the manager of Sellfast UK a week before the event. He tells the manager that he is so pleased with the way that things are going that he will pay a bonus of £1000 if Sellfast UK can persuade the Ethical Food Company to come to the event. Now Mr Brown has promised extra consideration to Sellfast UK, hasn't he? A potentially complicated situation for the parties, I'm sure you'll agree. Sure enough, Sellfast UK persuades the Ethical Food Company to come to the event. The manager of Sellfast UK claims his £1000. Mr Brown refuses. He says his original payment covers everything. Is Mr Brown contractually obliged to pay the extra money?

S1: I'm not sure. There are several relevant cases on this subject and I don't know which one applies.

P: Imagine Sellfast UK is your client. The manager wants the extra £1000 he was promised? Would you advise him to sue? As you know, a court is obliged to refer to case law. What is the relevant precedent case for a situation such as this?

S1: I think the relevant case might be Stilk v Myrick? The principle of law seems to be the same.

P: Good. Go on. You are on the right track.

S1: In the case of Stilk v Myrick some English sailors brought a claim against their employer. The facts of the case were that when a ship was at sea, several sailors deserted – they just left the ship without permission. I think the year was 1809; it was a long time ago. The captain of the ship panicked about getting back to England with so few men on board to do the necessary work. He promised the remaining sailors that if they would take the ship safely home they would receive a bonus as well as their normal pay. In fact, I think he promised to divide the wages of the deserting sailors between the sailors who stayed. The sailors agreed and expected to receive a bonus upon their return to England.

S2: That's right. And upon their return of course, the captain broke his promise. He told the sailors that they were paid to work on the ship and that they should not expect extra payment for carrying out their contractual duties.

S1: That seems unfair. I see both points of view but a promise is a promise. I think the court should have enforced the captain's promise to pay the men.

P: Well, the court of 1809 disagreed with you. One of the sailors sued. It was held that the sailors had provided no consideration for the extra payment. They had simply performed the duties that they agreed to carry out under the original contract. So, if we decide that Stilk v Myrick is the relevant case, and we follow the principle of law that it laid down, then Mr Brown will not be obliged to pay the £1000 bonus to Sellfast UK.

S2: But I don't think it is the relevant case in this situation. There is a much more recent precedent

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from 1991 that says if the defendants in a situation like this have received a real benefit, then the extra payment will be enforceable. I don't think Stilk and Myrick really applies here.

P: The name of the more recent case, please?

S1: The claimant was called Williams. Is it Williams v Roffey?

P: Good. Go on. Why is that case relevant?

S2: Because the judge held that so long as there was no duress or threat for the extra payment and that the offer of extra money was made willingly and voluntarily, the extra benefit one of the parties receives, in our case the attendance of the Ethical Food Company, should be paid for with extra consideration from the other side. I think Sellfast UK would be successful if they sued Mr Brown. If I were their solicitor, I would cite Williams v Roffey.

P: Agreed. Well done. That is a good example of finding the correct precedent to support your client's case. Now, let's move on to the next situation.

UNIT 4B
THE LANGUAGE OF EMPLOYMENT LAW

UNIT LISTENING

Lawyer: Good morning, ladies and gentleman. First of all, thank you very much for coming along to this breakfast seminar at Freeman Smith this morning. You are all very welcome. My name is Paul Hollingsworth and as most of you know, I'm a partner in the employment law department here at Freeman Smith.

The subject of this morning's talk is the Age Discrimination Act, a new Act of Parliament that came into force a few days ago on 1 October. This new legislation will affect all of you as employers and one of the key messages that I have for you today is the importance of complying with it in order to avoid being taken to employment tribunals by unhappy employees. From now on you should be very aware of how you treat employees with regard to their age. The new regulations will have an impact on every aspect of a company's employment policies including pay and benefits, promotion, dismissal, redundancy and retirement and even training opportunities.

It might surprise you to learn that one of the most important areas for you to consider as employers is the language that you use in advertising job vacancies. When you are looking for new staff you have to be very aware of the words you use in any newspaper or Internet advertisement as well as in any internal memo you might write advertising a new or vacant position within the company.

To use another country's experiences as a guide for us here in the UK, our neighbours in the Republic of Ireland introduced legislation six years ago to prevent employers discriminating against employees on the grounds of age. Our research of how things have worked out in Ireland is interesting. It tells us that most claims in tribunals have been based on discriminatory advertising rather than discrimination in the workplace. In other words, too many employers are using discriminatory language in the recruitment process. So what do you need to be aware of when you advertise a job?

Well, first you should remember not to use certain words in your advert that suggest you only want people of a certain age. You might for example, face legal action from older people if you advertise for a 'young, dynamic graduate' to fill a position in your company. These words 'young' and 'dynamic' have been interpreted as automatically excluding older people. On the other hand, be careful of words such as 'senior', 'mature' or 'well-experienced' as they could be seen as excluding younger people from applying.

As well as being careful about the words that you use you also need to be careful about making general statements in job adverts. For example, requiring that all applicants for a particular job have a degree if it is not really necessary to do so, might be seen as discriminating against older people. This is because younger people are more likely to have had the benefit of a university education.

Just to make local employers here in Chatsworth fully aware of the situation, I have with me a copy of Thursday's edition of our local newspaper, the Chatsworth Herald. As you all know, the Herald carries a jobs vacant section every Thursday. It might come as a shock to you to discover that approximately 25% of all of the adverts in the newspaper this week breach the new legislation. That means that all of these advertisers are open to claims from potential employees who might feel that they have been discriminated against on the grounds of age.

Now let's move on to employees who are currently working for you. A case was brought against an employer in Ireland last year by a female employee aged 61. Her name is Brenda Flanagan. Brenda worked in the accounts department of a large chemical company and there is a normal retirement age of 65 for people in her position. This particular lady did not wish to retire at 65 and intended to make a request to continue working when she received notice of her retirement. The employer arranged a two-day training course for everyone in Brenda's department on a new software package that they are going to use. The employer told Brenda that she would not be trained because she is retiring soon and it wasn't worth spending the money on training her. Brenda took legal action against her employer immediately.

Another age-related case was brought on quite different grounds. Michael aged 55, worked in an office where most of the rest of the staff are aged 25 to 40. Everyone in the office including the manager, often met for drinks on Friday evenings but they didn't ask Michael to join them. Michael discovered that they discussed work issues on those nights out and he felt undervalued and excluded.

In both cases above, Brenda and Michael were successful at tribunals. Both successfully argued that they had suffered from age discrimination at work. I cannot stress to you strongly enough how important it is to be aware of the new regulations and not to suffer financially because of compensation payments to employees.

I have prepared a fact sheet for you to collect at the end of the seminar but we will now have a question and answer session based on the new legislation.

Thank you.

EXAM EXERCISE LISTENING

L: Good afternoon Mr Winter. Please take a seat.

C: Thank you

L: How can I help you today? I understand you have filed a claim with an employment tribunal. Is that right?

C: Yes, I filed a claim a couple of days ago for unfair dismissal against my employer. I was an officer with the West Midlands Police Force. I used to work mostly in the centre of Birmingham. They sacked me two weeks ago.

L: Oh dear. I'm sorry to hear that. On what grounds?

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C: They sacked me on the grounds of my attendance record. I've been off work a lot the last few years. I don't argue with that. They said I'd taken 770 days sick over the last four years, which is probably true. I hadn't bothered to count the days, to be honest with you.

L: That's an awful lot of time to be off work sick. Why was that?

C: Well, that's the unfair part. I was very badly injured when I was on duty in June, four years ago. My colleague and I were called to a house in Birmingham late one night where there was a domestic dispute. It turned out to be a very serious argument between a husband and a wife. I was kicked in the head by the man of the house during the course of the incident. I lost my hearing in my left ear for months. It's still not completely better yet!

L: I see. That sounds terrible! So you would agree that you have had a lot of time away from work because you were ill but you would say in your defence that it's all due to an incident that happened at work. And on the basis of those facts you claim your dismissal is unfair?

C: Precisely! They are firing me for something that is not my fault. Surely they can't do this to me?

L: Well let's see, shall we? It depends on what procedures were followed and what the facts of the case are following the attack upon you four years ago. Let's start at the beginning. You say you were injured at work in June of that year?

C: Yes, that's right. The attack left me partially deaf.

L: Any other injuries? Any broken bones?

C: No. Just bruising to my face. The main problem was with my ear.

L: I see. And did that improve? Did your hearing return?

C: Yes, it did. After about six months my hearing was much improved. But being away from work had left me suffering from depression. I was alone at home day after day with nothing to do. I became very miserable and I had to return to the doctor for anti-depressant tablets.

L: But your initial injury was better? The injury to your ear. Am I right in saying that?

C: It wasn't completely better but the doctor said despite that, I was fit to return to work after six months, yes. It was my psychological condition, not my physical condition, that left me unable to work.

L: I see. And what did your employer have to say about that?

C: My supervisor was a woman called Roz Shannon. She was extremely unreasonable. Not very sympathetic, to say the least! She told me after I'd been absent for a year that she was doing all she could to help me and that I had another 12 months to improve my attendance record. She said that as long as I was employed she couldn't recruit anyone to replace me and my colleagues needed help. It was horrible. I was made to feel very guilty.

L: There's a good chance that she will say exactly that at the tribunal. It's a fair point to make, that they couldn't do without you for too long, especially once you had recovered from your initial injury. I'm afraid that some employers are not too sympathetic about depression and believe that going back to work is the best solution to the problem.

C: That's exactly the attitude she had! She wrote me a letter last week saying that she would file a defence saying I'd only managed to work for six weeks in the last four years and that I refused to return to work.

L: And is that true? Have you only worked for six weeks since the attack?

C: Yes. I was recovering from the attack at work and became depressed. Then my closest friend moved away to Australia and that made me worse. My mother became very ill. Everything seemed to be too much for me. They offered me the chance to go back on a part-time basis at first but I couldn't even manage that.

L: I see. Well Mr Winter, if your employer has followed the correct procedures and has tried to support you in your return to work, I don't really think you have much chance of success. You will have to convince the tribunal that your employer has acted unreasonably and I'm not sure that that's true in this case.

C: Really? So you agree with them?

L: Not at all, you have my full sympathy. But I'm afraid the tribunal has to be realistic. On the basis of what you've told me today I would advise you to think again before proceeding with your claim.

C: I see. I'll think about it. Thank you.

UNIT 5B
THE LANGUAGE OF THE LAW OF TORT

UNIT LISTENING

Professor: Today's lecture is a general introduction to the law of tort.

First of all, let's ask ourselves 'what are the aims of this area of law?' Why do we need to have a law of tort, or as some people call it, the law of obligations, at all? Those are questions that really require a lengthy answer because the law of tort covers so many different situations in life. On a very general level however, we can say that the law of tort is concerned with the idea of redress.

Students often ask me for a precise definition of 'redress', because it's not a word that you hear used in the street every day. I would say that redress means to remedy a wrong. To restore the balance of things. A person who has suffered a wrong wants to be put back in the situation that they were in before. A member of the public will usually describe this as a process of compensation rather than redress. This is probably because the claimant, in the vast majority of tort actions that come before the courts, is seeking monetary compensation for the wrong that he or she has suffered. To those in the legal profession, this monetary compensation is more correctly known as 'damages'. So please don't confuse the two terms. Redress and compensation are quite different things.

Let's stick with the idea of redress for a moment. We've established that monetary compensation is one type of redress. What else can the courts offer to the injured party? Well, in many cases the claimant is not seeking money at all, but an injunction to prevent the occurrence of harm in the future. If we take as an example a case of the tort of nuisance, which is the tort of interfering with an individual's enjoyment of his or her land, you can clearly see that the defendant is engaged in a continuing act. Let's say the nuisance is one of noise. Damages are available to the defendant but are clearly not the desired remedy for a claimant who is suffering over a long period of time. The claimant wants the *nuisance to stop and the obvious* remedy is therefore, injunction.

So, having established that the law of tort is concerned with redress and that this redress can take several forms, let's now turn to the question of liability in tort. We would correctly term this, 'tortious liability'. What is the scope of this liability in our legal system? It is absolutely impossible for every act in society that causes harm to another to lead the victim to demand a remedy. If, for example, I start a business such as a café in an area where there is already a café and I provide a better service, then I have caused my

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competitor to suffer a loss. But should I be liable for that loss? Of course not! No reasonable person would suggest otherwise. So it is therefore a fairly easy matter to establish that not all losses or harm that a person suffers can be remedied.

In general, the scope of tortious liability is as follows. The law says that I have an automatic duty of care towards other people in general. It doesn't matter who they are or whether or not I have any kind of relationship with them. I nevertheless have a civil duty not to harm them in any way. I am not allowed by law to hurt another person physically or to harm their reputation. This duty is independent of any kind of contractual agreement. The duty exists in the law itself and does not depend on the consent of the parties as it does in the law of contract. To give you an example, the law of tort says that I have an automatic duty not trespass on your land. An automatic duty. The duty exists because the law says so and not because I have made any private agreement with you to undertake such a duty.

Of course, in practical terms there is often an overlap in any real-life situation between the law of contract and the law of tort. If we take the example of a company supplying a defective product to a group of consumers, this may result in concurrent liability in contract and tort. In other words, the company may be liable in both areas of law at the same time. The claimant may not of course, recover damages twice!

Similarly, tort and crime overlap. There are some torts that are also crimes, sometimes with the same names in both areas of law, for example, assault. Assault is both a crime and a tort. In some cases the evidence from a criminal trial is used in a later civil action based on the same offence. Let's look at a criminal case involving a road traffic accident, for example. The state will bring a criminal prosecution if the driver of a vehicle caused an accident and he or she was breaking the criminal law. The evidence from the criminal case may then later be used as evidence of negligence in civil proceedings.

The conclusion is to look at the law of tort as part of the wider law. Some legal commentators have somewhat unfairly termed it as 'the dustbin' or 'the garbage can' of the law of obligations. They mean it is there simply to deal with cases that other, longer established areas of law cannot deal with. I disagree. The law of tort exists for good reason and it is an essential area of expertise for the modern lawyer.

EXAM EXERCISE LISTENING

L: Good afternoon Mr Kelly. Please take a seat.

C: Thank you.

L: I will need to take a few details about you in a moment, as you are a new client. You seem very upset. How can I help you today?

C: Yes, I am very upset. I was told by a good friend of mine that you are an excellent libel lawyer, Miss Reay. I hope you can help me because my life has been absolutely destroyed by untrue rumours. My wife and I have even thought about moving to France to get away from it all. It's been a terrible time for us.

L: Oh dear. I'm very sorry to hear that Mr Kelly. We do have a good reputation for our work on defamation cases at this firm. I'm sure we can help you. Would you tell me a few details about what has happened to you?

C: Certainly. The rumours started on the Internet. Have you heard of a website called FriendsAgain.com? It's a website where people can get back in touch with their old school friends.

L: Yes, I know of it. I think most people have heard about that website. When you join the website you can chat to old school friends. Am I correct?

C: Yes, that's the one. I'm not a member myself but I was a teacher at St Bernadette's school in Middleton between 1975 and 1990. I'm retired now of course.

L: I see. Please go on.

C: Well as you can imagine, I've taught thousands of pupils in my time. I was a modern languages teacher, mostly French and German you know. I'm afraid I was a strong disciplinarian. I was strict with my pupils but they usually got good exam results. But I wasn't very popular with some of the kids. In fact, one of my worst behaved pupils, Gary Hetherington, was expelled from the school. That must have been in 1980 or 81. I was present at a meeting with him and his parents and I insisted that he would not be allowed back into my class. He brought a knife to school, which was totally unacceptable. I had a terrible row with the boy's father at that meeting. He said that his son was a good lad and that I was victimising him. They insisted that the boy had the knife only because he was going fishing after school. It was a nasty business. The father was outraged about it. But, luckily the headmistress agreed with me. The boy was ordered out of the school without taking any of his final exams. I believe he works as a window cleaner these days.

L: And has this story been mentioned on the website? Because if a story is true you know, we can't usually defend it. What happened may have been unpleasant but if the facts are correct then there's probably not much we can do.

C: No, not at all. This story hasn't been mentioned. But Gary Hetherington is a member of the FriendsAgain website and he has written a lot about me that is most definitely not true!

L: Has he really? That's a different matter. Can you tell me what's been written?

C: Actually, I've printed off his comments. I can email them as well if you like. Here... it fits onto one sheet of paper but it's devastating none the less.

L: Thank you. So he says, 'Does anyone remember that miserable, boring Kelly? The big, fat idiot that taught us French? Did you know that he was thrown out of the school in 1990? The headmistress found out he was having an affair with one of his 16 year-old pupils and fired him immediately.'

C: That's exactly what he says. Of course, I retired in 1990, everyone who was at the school at that time knows that. But the people reading that website clearly don't know that. People keep on sympathising with my wife. An old friend of ours rang from Australia last week to say how sorry he was. I feel that I can't hold my head up in this town at all. Is there anything we can do?

L: Yes, there is. There is a very recent precedent in English law that helps us enormously with your situation. In 2002 a very similar case came before the County Court in Lincoln. A teacher named Jim Murray had been libelled by a former pupil on a very similar website to this one. In fact, the defendant in that case strangely enough, is now a teacher himself so it was pretty unbelievable that he could have made such stupid remarks.

C: You mean this has happened before? And the teacher sued?

L: Precisely. On the grounds that he was the victim of a serious defamation. And he won. The court ordered the libellous comments to be removed immediately and the defendant was ordered to pay £1,250 in damages and costs of £150. Of course, the local

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newspaper ran the story and everyone in the town could see that the teacher was the victim of a libel.

C: Can we start action immediately? The sooner that this is over the better.

L: I have a feeling we won't need to. We'll make some enquiries to find out who the Internet Service Provider is who hosts the website. We'll write to them and to Mr Hetherington and say that if the defamatory comments are removed immediately and there is a public apology then we will be willing to settle out of court.

C: Let's do that then. Could you start the process today? I'm not interested in the damages so much as making sure my good reputation is restored. If we can get some money out of him I'll donate all of it to charity, then I'll have a much needed holiday! I would like my legal costs to be covered though. I don't see why I should have to pay for his stupidity.

L: Certainly. And don't worry about this. The law in the UK says that once an Internet Service Provider is aware of a defamation they have a legal duty to remove it immediately. If they don't remove it within a reasonable period of time they too can become liable for damages. That rule was established in this country as long ago as 1996. I imagine the Service Provider will insist that it's removed pretty quickly once they receive our letter. Which will hopefully be within a day or two.

C: Thank you Miss Reay. You have no idea what a relief this is to me.

L: Don't worry Mr Kelly. We're here to help. Let's get some details from you and we can get the ball rolling.

UNIT 7B
THE LANGUAGE OF BUSINESS LAW

UNIT LISTENING

L: Good morning, Mr Craig. I've got all the documents we need here to set up your company. I'll go through them with you and we'll fill them in now, then you'll be able to sign them. First of all, we must complete this form. It's called Form 10 and it gives information about the first directors of the company. First of all, the company name. It's Outland Adventures, isn't it?

C: Well, that was the name we were using up to yesterday. But Shane, who is the other person who's setting up this company with me, and I have decided that we want to call it Outback Adventures, to show that we're specialising in trips to Australia.

L: I see. So what we've got to do now is check that the name is available for you.

C: How do we do that?

L: Oh, it's an easy procedure. We search the register of names to see if the name is already being used. If it is, you won't be able to use it. We can make a search online. Here we are. I'm putting in your proposed name... yes, yes, that's available. Good. Let me write that on Form 10... Outback Adventures Ltd.

C: Why have you added Ltd on the end of the name?

L: Ltd stands for Limited. If you're setting up a private limited company as you are, then by law the name of the company must end either with the word Limited, or the abbreviation, Ltd.

C: I see. What's next?

L: I need your registered office address. The registered office is the place where all official documents will be sent, for example, tax documents, and communications from Companies House. Also, if someone sues the company, he or she can send the claim form to the registered office.

C: I'll use my home address. It's 15 London Road, Oxton, Hapshire.

L: Hapshire is H-A-P-S-H-I-R-E?

C: Exactly.

L: And the postcode?

C: OX5 4HJ

L: OK. The next section is only used if an agent is acting for you, so we don't need to complete it. Next, are the contact details. You can choose if you want to complete this or not. It's so that if the staff at Companies House have any questions about the form, they know who to contact.

C: OK, put my name, Peter Craig and my phone number, which is 01482 685341. Then I see the form has a space for DX number. What does DX mean?

L: That means document exchange. It's a special type of postal service. Instead of sending letters by the normal postal service, law firms usually use DX – it's quicker and usually cheaper than the ordinary post. I'll leave it blank, as it doesn't affect you. Now, the Company Secretary.

C: That's going to be Shane's sister. She works for a big finance company. She's called Alice Bradman, no, wait, that was her maiden name. She got married last year, now she's...let me think... ah yes, Baker. I've got her address written down – here you are. 64 Green Lane, Lettford. That's with a double T, L-E-double T- F-O-R-D. That's also in Hapshire. Postcode is OX37 3FS.

L: And does she prefer Mrs or Ms?

C: Better put Ms.

L: And when will Ms Baker be able to sign the form?

C: She'll be coming in to sign it with Shane at lunchtime today.

L: Good. Right the last thing we need is the directors' details. I understand that you and Shane will be the directors? Shane's surname is Bradman isn't it? We have to list the directors in alphabetical order so Shane's details need to go first. It's Shane, spelt S-H-A-N-E and Bradman spelt B-R-A-D-M-A-N, isn't it?

C: Yep. He doesn't have a middle name. But he's actually a Dr. He did a PhD degree in ecotourism.

L: Right. And his address?

C: 87 Hunts Roads, Oxton, Hapshire, OX2 6GP.

L: And what's his date of birth?

C: 14 July 1979.

L: And his nationality?

C: Oh, he's an Aussie.

L: OK, let me just write that. There, Australian. And his business occupation is...?

C: Put down travel consultant.

L: And finally, has he been a director of any other company in the last five years?

C: No.

L: Thank you. Now I need your details, Mr Craig. I've got your name and address.

C: Yes, except my middle name. That's Robert.

L: And your birthday?

C: 21 November 1978.

L: And your nationality is British?

C: Yes.

L: Now we have to complete your business occupation.

C: Oh, put Managing Director. That sounds very important!

L: Right, and have you been a director of any other company within the past five years, Mr Craig?

C: No.

L: Great, that's all done. All it needs for you is to sign just here... and here, where it says signed by the subscribers. The subscribers are the first shareholders of the company. Good. And Shane and his sister can sign it when they come in.

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EXAM EXERCISE LISTENING

Paul Evans: My name is Paul Evans. I was made redundant 12 months ago. I was very upset when it happened as I had worked for the company for 15 years. However, I got a good redundancy package and this meant that I could survive for 24 months without an income. I decided I would turn this into a positive experience and do what I have always wanted to do, which is to become my own boss. I decided to set up a business sourcing and selling goods from Asia and Africa. Not all types of goods, but concentrating on art. Paintings, textiles and sculptures, in particular. All of my business is done online – I have travelled extensively all over the world and have made a lot of really good contacts, so I thought I could successfully combine this with my computer skills. Also, working with the Internet meant I could work from home without a lot of additional funding.

I considered the type of structure that would be best for my business and decided to set up a private limited company. I wanted to give the impression that it was a bigger business than just me working in the spare bedroom! By being a private limited company I can sign myself as director on all my correspondence with customers and suppliers. People's perceptions are really important.

I thought about buying an off-the-shelf company from a company formation agent, but in the end I decided to see a lawyer because I don't know anything about the law involved in setting up a company and I wanted to make sure everything was done properly. I also wanted to make sure the company was set up exactly for our purposes. The lawyer acting for us did a great job and said we could incorporate the company under the name of our choice. There are a lot of rules about names which surprised me. Obviously you can't use a name which might cause offence to people, and you can't use a name that an existing company has, or one that's very similar to it. There are also some words that you have to get special permission to use in a company's name, such as 'English'. I wanted to make sure that we could use the name as a domain name on the Internet as well as using it as the company name. We wanted to call it Executive Art, but when I did an online Companies House search to see if the name was available, it wasn't. We finally chose Exclusive Art Ltd.

Anyway, our solicitor asked us a lot of questions and drew up a number of documents including the Memorandum and Articles of Association. My wife, Judith, and I are the only shareholders and we are both directors of the company. We had to appoint a company secretary too, and luckily for me Judith's friend agreed to be our company secretary. She 's a lawyer although she doesn't practise now as she has two young children. We had to decide on the amount of capital that the company has. There are two different capital values, the authorised share capital and the issued share capital. I've learned a lot in setting this company up! Basically, the authorised share capital is the total nominal value of shares that the company is allowed to issue and the issued share capital is the amount the company actually does issue. I think that's right! Our lawyer advised us on the amounts. Then we had to choose a registered office. We just use our home address. Obviously if we rent an office, which I think we will do soon, we might change the address of the registered office. The other document which our lawyer drafted for us, the articles of association, contains all the rules and regulations of the company. It covers things like company meetings, notice periods, directors' payments, issuing shares and so on. It's pretty complicated and to be honest I started to read it but soon gave up because it is so complicated! But our solicitor ran through the most important points with us. We had to pay a fee to register the company, and two weeks after we sent all the documents to Companies House we received the certificate of incorporation. That was four months ago. We've already got two good orders from some big customers. I know it's not going to be easy, but it's an exciting time for us.

UNIT 9B
THE LANGUAGE OF COMPANY LAW

UNIT LISTENING:

Lawyer: Good morning, ladies and gentlemen. Thank you for coming to this seminar. This morning's topic is the role of company directors following the recent introduction of new legislation. This affects all companies in the United Kingdom.

The role and duty of directors has developed over the years from case law and statute. You are all aware of the fiduciary duty of the director to the company. Directors have this fiduciary duty because they are in a position of trust and confidence in relation to the company. Directors have a general obligation to act in good faith and in the best interests of the company and not for any improper purpose. They mustn't, for example, make a secret profit out of their position.

A director's duties were not clearly stated in statute until 2006. However, following the Companies Act 2006, there is a now a statutory statement of directors' duties. This was done so that the law is made clear for directors. The codified duties are contained in sections 170 to 177 of the Act. Section 170 makes it clear that the duties of a director are owed to the company and therefore generally only the company can enforce them. The Act then lists seven specific duties. The first duty is the duty of a director to act within the company's constitution and only exercise powers for the purpose for which they are intended. The second duty found in section 172 is the duty to promote the success of the company for the benefit of its members as a whole. This new duty broadly replaces the common law fiduciary duty to act in the "best interests of the company" that I mentioned earlier. In fulfilling the duty to promote the success of the company, the Act says that that the directors must have regard to a long list of specific factors. These include the likely long-term consequence of any decision, the interests of the company's employees, the company's business relationships with suppliers, customers and others, the impact of the company's operations on their community and the environment and so on. There was considerable criticism of this new duty, with people expressing fears that directors will be more defensive in their actions. This is because directors must consider this long list of factors with every action they take. Time will tell whether this happens or not.

The third duty is to exercise independent judgment, while section 174 deals with the fourth duty, which is to exercise reasonable care, skill and diligence. An important factor to consider in this area is the individual director's level of specialist knowledge. The common law principles are now clear. Directors who have specialist knowledge must exercise greater care and skill than those who do not have this particular knowledge. Similarly, different skills will be expected of, say a finance director and a personnel director.

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Section 175 provides for the fifth duty, which is to avoid conflicts of interest. A director must avoid a situation in which he or she has, or can have, a direct or indirect interest that conflicts, or possibly may conflict with, the interest of the company. This duty is not infringed however, if the matter has been authorised by independent directors, so long as the director in question does not form part of the quorum making the decision. For those of you from companies having two directors with a quorum requirement of two – be careful!

The sixth duty is not to accept benefits, including bribes, from third parties, while the final duty is the duty in section 177 for a director to declare his or her interest in a proposed transaction before the transaction is entered into. If a director breaches this duty, he or she commits an offence, which may result in a fine.

I've prepared a fact sheet for you, summarising your duties as a director under the new legislation, which you can take before you go. Now, are there any questions about what I've mentioned before we move on the next point?

EXAM EXERCISE LISTENING:

Hello and welcome to the Banking and Insolvency department. My name is Kim Watts and I'm very pleased to meet you all.

This is quite a large department doing a lot of varied work. I specialise in insolvency. Most of our clients are either banks or companies. The banks have generally made a large loan to a company, often secured by a debenture, and now the company is failing to make its repayments on the loan, because it is in financial **difficulties**. The bank instructs us to assist with the recovery of the debt. Our other clients represent the other side of the coin. They are companies who are facing insolvency and they come to us for advice on the best way forward.

The most common description of insolvency is that a company cannot pay its debts when they become due. There are various insolvency procedures that are available to companies. I'd like now to briefly outline these procedures, as they often cause confusion until you become more familiar with them.

First is the compulsory liquidation of a company. This is when the court orders the company to be wound up. Winding up usually starts by a creditor making a petition on the **grounds** that the company cannot pay its debts. The Official Receiver, who is an officer of the court, becomes the liquidator of the company and he or she has a duty to investigate the company's affairs and the causes of its failure, including the conduct of the directors. A director can be disqualified from acting as a director for a period of time if, for example, he or she made the position of the creditors worse by continuing to trade when the company was insolvent. When the winding up is complete, the company is formally **dissolved** and it no longer exists.

Next is administration. This is a court order made to appoint an administrator to **manage** the company's affairs. A court may make an administration order when the company is unable to pay its debts and the court considers that by making an administration order, the whole or part of the company may be saved as a going **concern**. The company, its directors or its creditors start the procedure by making a petition against the company. While an administration order is in force, the company cannot be wound up and legal proceedings against the company cannot be started except with approval of the court. The administrator takes control of all the property of the company and makes proposals for the creditors to consider. The administration order continues until the court decides that the order is no longer needed and formally discharges it.

Another insolvency procedure is receivership or administrative receivership. A receiver is appointed by the holder of a debenture of the company secured by a floating charge. Usually this is a bank. The company is said to be "in receivership". The receiver has the power to sell the assets covered by the floating charge and give the **proceeds** to the charge-holder.

A further procedure is a company voluntary arrangement. We call this a CVA. This is when a company makes an agreement with its creditors in order to **settle** its debts over an agreed period of time. The agreement has to be approved by the court. Meetings of the company and creditors are called to approve the proposed arrangement. Once approved, all creditors who had notice of the meeting and were entitled to vote are bound by the terms of the arrangement. The company can continue trading during the CVA and afterwards.

Finally, there are two types of voluntary liquidation. Members' voluntary liquidation means that the directors have made a statutory declaration of solvency – in other words, the directors believe that a company is solvent. This happens when a family business is sold off, for example, or if the purposes of the company have come to an end. The liquidation starts when the members, in a general meeting, **pass** a resolution to wind up the company voluntarily. Remember, if it is a voluntary liquidation, the company is not insolvent.

In the case of a creditors' voluntary liquidation, the company cannot pay its debts. The process is started by the directors, not the creditors. The company carries an extraordinary resolution to say that it cannot continue in business because of its liabilities and that it is advisable to wind up. A liquidator is appointed to wind up the company's affairs. The liquidator does this by **realising** the company's assets and paying its creditors. If anything is left over, the members of the company receive it.

In both types of voluntary liquidation, when the company's affairs are fully wound up, the formal dissolution of the company occurs and it **ceases** to exist.

Well, I hope that this helps just a little. I am sure that you will gain some experience of all these procedures during your six-month period with this department. We have a great team here and everyone will be very happy to answer any questions you have, so please feel free to come to any of us at any time.

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The authors

Catherine Mason and Rosemary Atkins are currently teachers of legal English in Cambridge. They both have a legal background as well as being experienced teachers of English as a foreign language. As a team they have provided training in legal English for numerous leading law firms around the world as well as working closely with the staff of organisations such as the British Council and The European Court of Justice.

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